

# Court of Claims of Ohio

The Ohio Judicial Center  
65 South Front Street, Third Floor  
Columbus, OH 43215  
614.387.9800 or 1.800.824.8263  
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TERRY L. WEBB, JR.

Plaintiff

v.

DEPARTMENT OF  
TRANSPORTATION

Defendant

Case No. 2007-03421-AD

Deputy Clerk Daniel R. Borchert

## ENTRY OF DISMISSAL

{¶1} On February 20, 2007, plaintiff, Terry L. Webb, Jr., while traveling on Ohio Avenue near Mt. Vernon Avenue in Columbus, Ohio, struck a pothole causing damage to his vehicle. Plaintiff filed this complaint against defendant, Department of Transportation (“DOT”), asserting his property damage was proximately caused by negligence on the part of DOT in maintaining the roadway. Plaintiff seeks damages in the amount of \$214.75, which includes repairs to his vehicle plus reimbursement of the filing fee.

{¶2} Defendant contended DOT does not bear the maintenance responsibility for the location of plaintiff’s damage-causing incident. Defendant explained the City of Columbus is responsible for maintaining the underlying roadway referenced in this complaint. Essentially, defendant insisted DOT is not the proper party defendant in this action and therefore, plaintiff’s claim should be dismissed.

{¶3} Plaintiff has not responded to defendant’s motion to dismiss. The site of plaintiff’s incident was in the City of Columbus.

{¶4} R.C. 5501.31 in pertinent part states:

{¶5} “Except in the case of maintaining, repairing, erecting traffic signs on, or pavement marking of state highways within villages, which is mandatory as required by

section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, no duty of constructing, reconstructing, widening, resurfacing, maintaining, or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director.”

{¶6} The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff’s case is dismissed.

{¶7} Having considered all the evidence in the claim file and, for the reasons set forth above, plaintiff’s claim is DISMISSED. The court shall absorb the court costs of this case.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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