[Cite as *Goodburn v. Columbus State Community College*, 2008-Ohio-1205.]

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
www.cco.state.oh.us

JANET GOODBURN

Plaintiff

v.

COLUMBUS STATE COMMUNITY COLLEGE

Defendant

Case No. 2007-05555-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶1} On June 9, 2005, plaintiff, Janet Goodburn, suffered property damage to her automobile while the vehicle was being parked at a lot owned and operated by defendant, Columbus State Community College ("CSCC"). Specifically, plaintiff sustained damage to the front bumper of a 2004 Mercedes-Benz C230 when the bumper caught on a piece of metal rebar protruding from a parking block at the end of a parking space at the CSCC Bridgeview Golf Course Lot. The damage incident was immediately reported to the CSCC Police Department and a written record was filed.

{¶2} Plaintiff contended the property damage claimed was proximately caused by negligence on the part of defendant in maintaining a hazardous condition on the Bridgeview Golf Course parking lot. Consequently, plaintiff filed this complaint seeking to recover $200.00, her insurance coverage deductible for automotive repair, plus $121.83 for associated car rental expenses. The filing fee was paid.

{¶3} Defendant filed an investigation report neither admitting nor denying liability in this matter. Defendant's stated position noted CSCC "does not have sufficient knowledge or information to form a belief as to the truth or falsity of the claims" contained in plaintiff's complaint. Plaintiff filed a response expressing her agreement with all segments of defendant's investigation report.

{¶4} Plaintiff was present on defendant's premises for such purposes which

would classify her under law as an invitee. *Scheibel v. Lipton* (1985), 156 Ohio St. 308, 46 O.O. 177, 102 N.E. 2d 453. Consequently, defendant was under a duty to exercise ordinary care for the safety of invitees such as plaintiff and to keep the premises in a reasonably safe condition for normal use. *Presley v. City of Norwood* (1973), 36 Ohio St. 2d 29, 65 O.O. 2d 129, 303 N.E. 2d 81. The duty to exercise ordinary care for the safety and protection of invitees such as plaintiff includes having the premises in a reasonably safe condition and warning of latent or concealed defects or perils which the possessor has or should have knowledge. *Durst v. VanGundy* (1982), 8 Ohio App. 3d 75, 8 OBR 103, 455 N.E. 2d 1319; *Wells v. University Hospital* (1985), 85-01392-AD. As a result of plaintiff's status, defendant was also under a duty to exercise ordinary care in providing for plaintiff's safety and warning her of any condition on the premises known by defendant to be potentially dangerous. *Crabtree v. Shultz* (1977), 57 Ohio App. 2d 33, 11 O.O. 3d 31, 384 N.E. 2d 1294.

{¶5} Additionally, it has been previously held "the liability of an owner or occupant to an invitee for negligence in failing to render the premises reasonably safe for the invitee, or in failing to warn him of dangers thereon, must be predicated upon a superior knowledge concerning the dangers of the premises to persons going thereon." 38 American Jurisprudence, 757, Negligence, Section 97, as cited in *Debie v. Cochran Pharmacy Berwick, Inc.* (1967), 11 Ohio St. 2d 38, 40, 40 O.O. 2d 52, 227 N.E. 2d 603.

{¶6} "The knowledge of the condition removes the sting of unreasonableness from any danger that lies in it, and obviousness may be relied to supply knowledge. Hence, the obvious character of the condition is incompatible with negligence in maintaining it. If plaintiff happens to be hurt by the condition, he [she] is barred from recovery by lack of defendant's negligence towards him [her], no matter how careful plaintiff himself [herself] may have been." 2 Harper and James, Law of Torts (1956), 1491 as cited in *Sidle v. Humphrey* (1968), 13 Ohio St. 2d 45, 48, 42 O.O. 2d 96, 233 N.E. 2d 589. "In short, if the condition or circumstances are such that the invitee has knowledge of the condition in advance, there is no negligence. *Debie*, at 11 Ohio St.

2d 38, 41, 40 O.O. 2d 52, 227 N.E. 2d 603.

{¶7} In the instant case, it is not obvious or apparent plaintiff had any knowledge of the protruding anchor rebar and displaced parking block. Considering a driver's position in a vehicle, and the position of the protruding rebar on the ground, it is probably the rebar was never seen as plaintiff entered the parking lot. Therefore, the court finds defendant had superior knowledge of the hazardous condition and failed to warn plaintiff of the condition or remove it. See *21st Century Leasing, Inc. v. Ohio Dept. of Natural Resources* (1999), 98-08994-AD; *Gallagher v. Columbus State Community College*, Ct. of Cl. No. 2005-09588-AD, 2006-Ohio-367; *Meinking v. E. Fork State Park*, Ct. of Cl. No. 2005-10071-AD, 2006-Ohio-1015.

{¶8} Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property. In regard to the facts of this claim, negligence on the part of defendant has been shown. *Jackson v. The University of Akron* (2001), 2001-04026-AD. Consequently, defendant is liable to plaintiff for the loss claimed, $321.83, plus the $25.00 filing fee, which may be reimbursed as compensable costs pursuant to R.C. 2335.19. *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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ENTRY OF ADMINISTRATIVE DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of $346.83, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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