

Court of Claims of Ohio

The Ohio Judicial Center
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Columbus, OH 43215
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THOMAS D. KORCHNAK

Case No. 2008-03718-AD

Plaintiff

Deputy Clerk Daniel R. Borchert

v.

ENTRY OF DISMISSAL

TURNPIKE COMMISSION

Defendant

{¶ 1} On March 25, 2008, plaintiff, Thomas Korchnak, filed a complaint against the Turnpike Commission. Plaintiff asserts while traveling on Tippecanoe Road at approximately 1:41 p.m. on March 8, 2008, he was passing under the overpass to the turnpike above, when defendant's snowplow plowed snow, ice and gravel over the overpass striking his vehicle. Plaintiff seeks damages in the amount of \$1,150.28 for damage sustained by his vehicle and reimbursement of the filing fee which he submitted with the complaint.

{¶ 2} On April 29, 2008, defendant filed a motion to dismiss pursuant to Civ.R. 12(B)(1), lack of subject matter jurisdiction. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "The Court of Claims is a court of limited jurisdiction which is empowered by Ohio Revised Code Chapter 2743, also known as the Court of Claims Act . . .

{¶ 4} "It is significant to note that the Commission is governed by Chapter 5537 of the Ohio Revised Code, which is also known as the Ohio Turnpike Act. The Ohio Turnpike Act was adopted by the General Assembly effective September 1, 1949. It **precedes** the effective date of the Court of Claims Act, January 1, 1975, by more than 25 years . . .

{¶ 5} "Therefore, it is axiomatic that the Ohio Turnpike Commission may sue or be sued pursuant to the express provisions of the Ohio Turnpike Act only, and that the

Court of Claims lacks subject matter jurisdiction to hear and allow this case to proceed toward merit resolution.”

{¶ 6} Plaintiff has not responded to defendant’s motion to dismiss.

{¶ 7} R.C. 2743.02(A)(1) in pertinent part states:

{¶ 8} “The State hereby waives its immunity from liability and consents to be sued, have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter, and, in the case of state universities or colleges, in §3345.40 of the Revised Code, and except as provided in division (A)(2) of this section. To the extent the state has previously consented to be sued, this chapter has no applicability.”

{¶ 9} R.C. 5537.04(A)(4) in pertinent part states:

{¶ 10} “(A) The Ohio Turnpike Commission may do any of the following:

{¶ 11} “(4) Sue and be sued in its own name, plead and be impleaded, provided any actions against the commission shall be brought in the court of common pleas of the county in which the principal office of the commission is located, or in the court of common pleas of the county in which the cause of action arose if that county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the commission by leaving a copy thereof at its principal office with the secretary-treasurer or executive director of the commission . . .”

{¶ 12} It is well settled that the Court of Claims does not have jurisdiction over matters involving the Ohio Turnpike Commission. *Zaniewski v. Ohio Turnpike Commission* (1994), 94-07331; *Citizens Insurance Co. of America v. Ohio Turnpike Commission* (1989), 88-10368-AD; *Prime Inc. v. Ohio Turnpike Commission* (1984), 84-01186-AD.

{¶ 13} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant’s motion to dismiss is GRANTED. Plaintiff’s case is DISMISSED. The court shall absorb the court costs of this case.

Case No. 2008-03718-AD	- 3 -	ENTRY
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DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa
6/3
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