

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

DAVID W. JOHNSON

Plaintiff

v.

OHIO DEPT. OF TRANSPORTATION

Defendant

Case No. 2008-04595-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On April 9, 2008, plaintiff, David Johnson, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on February 24, 2008, at approximately 6:30 p.m., “I was driving my car . . . on Western Reserve Road in Beaver Twp (near Canfield, Ohio) whereupon I come on to a multitude of potholes . . . one after another . . . which not only blew out my tire, but which bent the aluminum wheel frame of my front right wheel.” Plaintiff seeks damages in the amount of \$1,307.51 for wheel and tire replacement. Plaintiff attributes his resulting damage as the result of defendant’s negligence in maintaining the roadway. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On June 6, 2008, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “Plaintiff alleges that he sustained property damage to his vehicle while driving on Western Reserve Road within a few hundred feet of Tippecanoe Road. Particularly, plaintiff incurred automotive repair costs as a result of hitting many potholes in the traveled portion of the roadway and seeks reimbursement of such costs from defendant.

{¶ 4} “Defendant asserts it is not responsible for the maintenance of Western Reserve Road where the potholes were located. The Mahoning County Engineer is

responsible for Western Reserve Road. (See Exhibit A) As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”

{¶ 5} Plaintiff has not responded to defendant’s motion to dismiss. The site of the damage-causing incident was located within the maintenance jurisdiction of Mahoning County.

{¶ 6} Ohio Revised Code Section 5501.31 in pertinent part states:

{¶ 7} “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 . . .”

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

{¶ 9} 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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa

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ENTRY

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