

# 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

TROY DUNN

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2008-04609-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

{¶ 1} On February 20, 2008, at approximately 9:30 a.m., plaintiff, Troy Dunn, was driving his 1996 Mercedes-Benz C-280 on a bridge at milepost 143.0 on Interstate 75 south in Hancock County, when the “car spun out due to black ice on the bridge.” Plaintiff recalled he was traveling about 30 mph as he drove over the bridge and lost control of the vehicle on the icy roadway. Plaintiff’s car struck a guardrail on the left side of the road and ultimately stopped facing northbound in the left southbound lane. The damage to plaintiff’s automobile from striking the guardrail resulted in the vehicle being declared a total loss by plaintiff’s insurer. The 1996 Mercedes-Benz C-280 was valued at \$5,546.00 and plaintiff received reimbursement from his insurer for his loss in the amount of \$4,546.00. Plaintiff contended the damage to his vehicle was proximately caused by negligence on the part of defendant, Department of Transportation (“DOT”), in failing to conduct snow and ice removal on Interstate 75 on February 20, 2008. Plaintiff filed this complaint seeking to recover \$1,000.00, his insurance coverage deductible for the loss of his automobile. The filing fee was paid. Plaintiff noted his property damage incident was among ten similar instances that occurred on Interstate

75 on February 20, 2008 attributable to icy roadway conditions.

{¶ 2} Defendant denied liability in this matter based on the contention that no DOT personnel had any knowledge regarding the condition of the roadway surface prior to plaintiff's incident. Defendant denied receiving any calls or complaints about ice on the roadway at the particular area of plaintiff's damage occurrence which DOT located at state milepost 143.0 on Interstate 75 in Hancock County. Defendant reasoned, "it is more likely than not that the road surface existed in that location for only a relatively short amount of time before plaintiff's incident." Presumably, defendant seems to be arguing the icy slippery roadway conditions appeared suddenly before DOT could respond to ameliorate the conditions.

{¶ 3} Defendant asserted plaintiff failed to prove DOT acted negligently in conducting its roadway maintenance responsibilities. Defendant's records reveal DOT work crews applied salt brine to Interstate 75 from milepost 142 to 147 on February 19, 2008 and February 20, 2008. Defendant related four DOT snow removal vehicles applied salt brine on Interstate 75 before plaintiff's damage occurrence. Defendant stated DOT "is not an insurer of the highways nor believes that it was negligent in respect to the maintenance of the area in question."

{¶ 4} Defendant has a duty to maintain the roadway in a safe reasonable manner. See *Knickel v. Ohio Department of Transportation* (1976), 49 Ohio App. 2d 335, 3 O.O. 3d 413, 361 N.E. 2d 486. However, pursuant to R.C. 5501.41, DOT does not have a statutory duty to remove snow and ice from its roads. See, also, *King v. Ohio Dept. of Transportation* (Mar. 10, 1994), Franklin App. No. 93AP-918, unreported.

{¶ 5} Furthermore, DOT's duty to maintain the roadways does not extend to removal of natural accumulations of snow and ice. Therefore, since defendant had no duty to remove natural accumulations of snow and ice from the roadway, no liability shall attach even under such circumstances where a plaintiff proves he suffered damages as a proximate cause of DOT's failure to clear snow and ice from the roadway. See *Mingus v. Ohio Dept. of Transp.* (March 29, 1994), Franklin App. No. 93API11-1543 unreported. Based on the above mentioned holdings, plaintiff's claim is denied.

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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 defendant. Court costs are assessed against plaintiff.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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RDK/laa  
8/19  
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