

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

KRYSTAL MUSSIG

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2008-05427-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On April 28, 2008, plaintiff, Krystal Mussig, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on March 26, 2008, at approximately 1:00 p.m., while heading southbound on State Route 306 nearing the intersection with State Route 20, she struck a pothole causing damage to her vehicle. Plaintiff attributes her resulting damages as the result of negligence on the part of defendant.

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

{¶ 3} “Defendant has performed an investigation of this site and that area falls under the maintenance jurisdiction of the City of Mentor. (See Attached Map) As such, this section of roadway is not within the maintenance jurisdiction of the defendant.

{¶ 4} Plaintiff has not responded to defendant’s motion to dismiss. The site of the damage-causing incident was located in the City of Mentor.

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

{¶ 6} “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 culverts thereon, shall attach to or rest upon the director, but the director may construct, reconstruct, widen, resurface, maintain, and repair the same with or without the cooperation of any municipal corporation, or with or without the cooperation of boards of county commissioners upon each municipal corporation consenting thereto.”

{¶ 7} The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff's claim is dismissed. In defendant's motion it was stated a settlement agreement would be filed for the recovery of the filing fee, however, no such agreement has been filed.

{¶ 8} 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

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ENTRY

Entry cc:

Krystal Mussig
7701 Sharon Drive #4A
Mentor, Ohio 44060

Thomas P. Pannett
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DRB/laa
12/9
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