

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

MARILYN T. PATRICK

Plaintiff

v.

DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2008-08833-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On August 7, 2008, plaintiff, Marilyn T. Patrick, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on March 9, 2008 at approximately 1:00 p.m., her and her husband were traveling southbound on State Route 4 “where Main Street joins State Route 4” a couple of miles south of Middletown when she struck a pothole causing damage to their 2005 Audi A4. Plaintiff seeks damages in the amount of \$382.27, as the result of negligence on the part of defendant in not keeping the roadway hazard free. Plaintiff submitted the filing fee with the complaint.

{¶ 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 at SR 4 and South Main Street falls under the jurisdiction of the City of Middletown. The City of Middletown is within Butler County and maintains South Main Street in Lemon Township. (See attached maps) 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 Middletown.

{¶ 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 . . .”

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

{¶ 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

Entry cc:

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DRB/laa
12/4
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