

# 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

TRISTA LAYMAN

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2008-08931-AD

Deputy Clerk Daniel R. Borchert

## ENTRY OF DISMISSAL

{¶ 1} On August 11, 2008, plaintiff, Trista Layman, filed a complaint against defendant, Department of Transportation. Plaintiff asserts that on August 1, 2008, while traveling north on State Route 7 after going over the Symmes Creek Bridge she struck a “big hole that went almost all the way across the road. I was on Rockwood Ave. right in front of Peperonis Pizza Drive-in.” Plaintiff seeks damages in the amount of \$989.04, for tire and rim damage to her 2001 Mitsubishi Eclipse Spyder and one hour lost overtime. Plaintiff asserts defendant’s negligence in failing to maintain the highway caused her damages. 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 and this area on SR 7 and Symmes Creek Bridge falls under the maintenance jurisdiction of the Village of Chesapeake. Plaintiff mentions that she was on Rockwood Avenue but SR 7 is known as Brockwood Avenue when you get within the village limits of Chesapeake. (See

Attached Straight Line Diagram) 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 Village of Chesapeake.

{¶ 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.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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DRB/laa  
12/4  
Filed 12/24/08

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ENTRY

Sent to S.C. reporter 3/13/09