

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

MICHAEL G. LUPICA

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2009-05480-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On June 8, 2009, plaintiff, Michael Lupica, filed a complaint against defendant, Department of Transportation. Plaintiff alleges while traveling on S.R. 8 on January 21, 2009, he struck a pothole located “about 0.75 miles south of the Graham Road exit in Stow,” Ohio. The plaintiff seeks damages in the amount of \$203.42 for a left front wheel, hubcaps, and alignment for his vehicle, a 2007 Chevrolet Cobalt, due to defendant's negligence in maintaining the roadway. Plaintiff submitted the filing fee with his 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 section of SR 8, by the Graham Road Exit, and it falls under the maintenance jurisdiction of the City of Cuyahoga Falls in Summit County (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 Cuyahoga Falls.

{¶ 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 bridges and 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:

Michael G. Lupica
10586 Valley View Road
Northfield, Ohio 44067

Thomas P. Pannett
Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

DRB/laa
8/6
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