

# 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

JAMES BARE

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION, DISTRICT 4

Defendant

Case No. 2009-02863-AD

Deputy Clerk Daniel R. Borchert

## ENTRY OF DISMISSAL

{¶ 1} On March 4, 2009, plaintiff, James Bare, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on February 23, 2009 at approximately 11:00 a.m., he ran over a “road reflector piece” damaging his tire. Plaintiff seeks damages in the amount of \$122.48 from defendant as a result of defendant’s negligence in maintaining the roadway. The plaintiff submitted the filing fee with the complaint.

{¶ 2} On March 18, 2009, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “On February 23, 2009, at 11:00 a.m., the plaintiff, James Bare, ran over a road reflector on SR 91 at Sanitarium Road (in front of Springfield High School). Plaintiff alleges that he sustained property damage to his vehicle while driving on SR 19 at Sanitarium Road. Particularly, plaintiff incurred automotive repair costs as a result of hitting a road reflector in the traveled portion of the roadway and seeks reimbursement of such costs from defendant.

{¶ 4} “Defendant asserts it is not responsible for the maintenance of SR 91 at Sanitarium Road where the reflector was located. The Summit County Engineer is responsible for SR 91 or Canton Road. (See Exhibit A) As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”

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

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

{¶ 7} 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 . . .”

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

{¶ 9} 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

4/22

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