

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

JOHN S. MCGUE

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2009-06931-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, John S. McGue, filed this action against defendant, Department of Transportation (ODOT), alleging his 2005 Acura TSX was damaged as a proximate cause of negligence on the part of ODOT in maintaining a roadway construction area on US Route 33 on July 17, 2009. Plaintiff requested damages in the amount of \$133.32, the cost of automotive repair he incurred.

{¶ 2} 2) Defendant filed an investigation report requesting plaintiff's claim be dismissed, advising that the claim was paid and settled by ODOT contractor, The Shelly Company. On September 10, 2009, The Shelly Company paid \$197.91 to plaintiff as a full and final release of the claim against defendant. Plaintiff also executed a "Release of All Claims" document (copy submitted).

CONCLUSIONS OF LAW

{¶ 3} 1) R.C. 2743.02(D) in pertinent part states: "Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant." Upon review, the court finds that the

money received by plaintiff is a recovery from a collateral source.

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ENTRY OF ADMINISTRATIVE DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff's claim is DISMISSED with prejudice. The court shall absorb the court costs for this claim in excess of the filing fee.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

John S. McGue
7682 Worsley Place
Dublin, Ohio 43017

RDK/laa
4/21
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Jolene M. Molitoris, Director
Department of Transportation
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