



# 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](http://www.cco.state.oh.us)

LAUREN R. YAEGER

Plaintiff

v.

OHIO DEPT. OF TRANSPORTATION

Defendant

Case No. 2011-03324-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

### FINDINGS OF FACT

{¶1} 1) Plaintiff, Lauren Yaeger, filed this complaint against defendant, Department of Transportation (ODOT), alleging that she suffered substantial damage to her 2009 Chevrolet Cobalt as a proximate result of negligence on the part of ODOT in maintaining a hazardous condition on Interstate 27 near Cincinnati. Plaintiff stated she was driving northbound on I-27 when she noticed the car ahead of her apply its brakes and then saw something fly up and hit the pavement. Plaintiff was unable to avoid the object which then “popped” and caused damage to plaintiff’s bumper and radiator. Plaintiff recalled the incident occurred on February 8, 2011 at approximately 10:15 p.m. Plaintiff seeks damages in the amount of \$1,786.23, the cost of replacement parts and related repair expenses. The filing fee was paid.

{¶2} 2) Defendant filed an investigation report requesting plaintiff’s claim be dismissed due to the fact the city of Cincinnati and not ODOT bears the maintenance responsibility for the roadway where plaintiff’s incident occurred. In support of the request to dismiss, ODOT stated, “[d]efendant has performed an investigation of this

site and this section of US 27 falls under the maintenance jurisdiction of the City of Cincinnati.” Defendant pointed out that the only area of US 27 that meets plaintiff’s description of where the incident occurred is the section of roadway “just north of I-74 shown in the attached aerial view.” ODOT further stated, “[a]s such this section of roadway is not within the maintenance jurisdiction of the defendant.” Consequently, defendant contended the city of Cincinnati is the proper party defendant to plaintiff’s action. The site of the damage-causing incident was located in the city of Cincinnati.

{¶3} 3) Plaintiff did not file a response.

#### CONCLUSIONS OF LAW

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

{¶5} “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, but he may construct, reconstruct, widen, resurface, maintain, and repair the same with or without the cooperation of any municipal corporation, or with or without the cooperation of boards of county commissioners upon each municipal corporation consenting thereto.”

{¶6} The site of the damage-causing incident was not the maintenance jurisdiction of defendant. Consequently, plaintiff’s case must be dismissed. See *Sandu v. Ohio Dept. of Transp.*, Ct. of Cl. No. 2008-02606-AD, 2008-Ohio-6858, *Gerzina v. Ohio Dept. of Transp.*, Ct. of Cl. No. 2010-09809-AD, 2011-Ohio-1952.



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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. Court costs are assessed against plaintiff.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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