

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

SUSAN E. ABBOTT

Plaintiff

v.

OHIO UNIVERSITY

Defendant

Case No. 2010-11579-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Susan E. Abbott, filed this action against defendant, Ohio University (OU), contending her 2006 GMC Envoy was damaged on October 13, 2010 as a proximate cause of negligence on the part of OU personnel in conducting lawn maintenance activity on university grounds.

{¶ 2} 2) In her complaint, plaintiff requested damage recovery in the amount of \$538.20, the total cost of automotive repair for her vehicle. Plaintiff acknowledged that she maintains insurance coverage for automotive damage with a \$250.00 deductible provision. The \$25.00 filing fee was paid and plaintiff requested reimbursement of that cost along with her damage claim.

{¶ 3} 3) Defendant filed an investigation report neither admitting nor denying liability in this matter. Defendant did dispute plaintiff's claim pointing out she carries insurance coverage with a \$250.00 deductible provision. Defendant stated, "[t]he University, however, is agreeable to a decision in the amount of \$275 which would include (plaintiff's) out-of-pocket expenses, her collision deductible of \$250 and the filing

fee.”

{¶ 4} 4) Plaintiff filed a response requesting judgment in her favor for the full amount of damages claimed, \$538.20.

CONCLUSIONS OF LAW

{¶ 5} 1) Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff’s property while performing any maintenance work. *Hoelle v. Miami Univ.*, Ct. of Cl. No. 2005-06970-AD, 2005-Ohio-4643. In regards to the facts of this claim, negligence on the part of defendant has been shown. *Rust v. Miami Univ.*, Ct. of Cl. No. 2005-01226-AD, 2005-Ohio-1248; *Laux v. Cleveland State Univ.*, Ct. of Cl. No. 2007-01410-AD, 2007-Ohio-2409; *Dunlap v. Ohio University*, Ct. of Cl. No. 2009-06010-AD, 2009-Ohio-7081.

{¶ 6} 2) R.C. 2743.02(D) provides:

“(D) Recoveries against the state shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant. This division does not apply to civil actions in the court of claims against a state university or college under the circumstances described in section 3345.40 of the Revised Code. The collateral benefits provisions of division (B)(2) of that section apply under those circumstances.”

Also, R.C. 3345.02(B)(2) states in pertinent part:

“If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against the state university or college recovered by plaintiff.”

{¶ 7} 3) Defendant is liable to plaintiff for her insurance coverage deductible, \$250.00, plus the \$25.00 filing fee which may be reimbursed as compensable costs pursuant to R.C. 2335.19. See *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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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, judgment is rendered in favor of plaintiff in the amount of \$275.00, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
1/25
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