

[Cite as *Witt v. Ohio Dept. of Transp.*, 2015-Ohio-4891.]

**IN THE COURT OF CLAIMS OF OHIO**

PAUL J. WITT

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2015-00040-AD

Clerk Mark H. Reed

**MEMORANDUM DECISION**

{¶1} Plaintiff Paul Witt filed this claim on January 20, 2015, to recover damages which occurred when his residence, located in Painesville, Lake County, Ohio, was damaged by flooding and erosion. Specifically, his driveway was damaged when an adjacent construction project on Painesville-Warren Road (Rt. 86) caused excessive water damage to his driveway in July, 2013. This area and location of incident is a public road not maintained by the Ohio Department of Transportation. Plaintiff's damages amount to \$1500.00.

{¶2} In order to recover on a claim for roadway damages against the Ohio Department of Transportation, Ohio law requires that a motorist/plaintiff prove all of the following:

{¶3} That the plaintiff's motor vehicle received damages as a result of coming into contact with a dangerous condition on a road maintained by the defendant.

{¶4} That the defendant knew or should have known about the dangerous road condition.

{¶5} That the defendant, armed with this knowledge, failed to repair or remedy the dangerous condition in a reasonable time.

{¶6} In this claim, the Court need not find that the plaintiff prove that he incurred damages to his driveway, as a result of a local construction project. As the Investigation Report filed March 20, 2015 by ODOT makes clear, the Painesville-Warren Road construction project was done under the supervision of Lake County and not ODOT. Any claim for damages then must be filed against Lake County, Ohio in the appropriate court of that county.

{¶7} Since the defendant had no responsibility to maintain this road, they cannot be held liable for plaintiff's losses.

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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 defendant. Court costs are assessed against plaintiff.

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MARK H. REED  
Clerk

Entry cc:

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