

**IN THE COURT OF CLAIMS OF OHIO**

BRIAN STIERHOFF

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2015-00423-AD

Clerk Mark H. Reed

**MEMORANDUM DECISION**

{¶1} On April 29, 2015 Brian Stierhoff (hereinafter plaintiff) filed a complaint in this Court against the Ohio Department of Transportation (hereinafter ODOT). In his claim plaintiff alleged that on April 14, 2015, while driving on State Route 47 in Union County Ohio, his motor vehicle struck a steel plate embedded in the roadway. As a result of striking this object, two of his tires were damaged beyond repair and two of his tire rims were bent. Plaintiff claims damages in the amount of \$280.32. Plaintiff does have insurance for his vehicle but the deductible is \$500.00.

{¶2} In an Investigation Report filed July 7, 2015, ODOT did not dispute the facts of this case nor plaintiff's claim for damages. ODOT does however deny any liability for plaintiff's damages. According to ODOT's investigation, this accident occurred on SR 47 at mile marker 10.0 in Union County. This roadway has a daily traffic count of between 960 and 2,710 vehicles. Despite this volume of traffic, ODOT denies that it was aware of any faulty reflector or other road hazard on SR 47 immediately prior to plaintiff's accident. Instead, ODOT contends that it is likely that the road hazard existed in that location for only a relatively short amount of time before plaintiff's accident.

{¶3} However, in a response filed July 22, 2015, the plaintiff pointed out that he did not hit a road reflector. What he did strike, and what he furnished a photograph of, was a square steel box that was embedded in the roadway. This box, which likely had

at some point housed a reflector, protruded above the roadway. Additionally, plaintiff pointed out that the box was surrounded by freshly laid asphalt which was clearly evidence of a (failed) attempt at repair of the hazard to keep the roadway safe for motorists.

{¶4} Although, it is difficult in a road hazard case for a motorist to show the necessary proof to hold ODOT liable for damages, in this case the Court is sufficiently persuaded by the evidence and argument submitted by the plaintiff. It is clear that what plaintiff struck was not a road reflector but an embedded metal box. This box was not flush with the roadway and the protruding metal edges were a hazard to motorists, evidenced by the damage caused to plaintiff's vehicle. There had obviously been a failed repair of the situation as evidenced by the fresh asphalt shown in the photograph submitted by plaintiff in his response. This failed repair would have only been attempted by ODOT as maintenance of the roadway was the exclusive duty of the agency. This failed repair is sufficient to show that the agency knew about the road hazard but had failed to act in a reasonable manner to continue to keep this section of the roadway safe.

{¶5} The Court therefore finds that the agency is sufficiently negligent to give rise to liability for plaintiff's damages and therefore the Court finds in favor of the plaintiff.

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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 \$305.32, which includes the filing fee. Court costs are assessed against defendant.

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MARK H. REED  
Clerk

Entry cc:

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