

# 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

ARTHUR L. MIRTO

Plaintiff

v.

TRUMBULL CORRECTIONAL INSTITUTION

Defendant

Case No. 2009-08969-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

### FINDINGS OF FACT

{¶ 1} 1) On October 8, 2009, a van owned by plaintiff, Arthur L. Mirto, was damaged by an employee of defendant, Trumbull Correctional Institution (TCI). Plaintiff filed this complaint seeking to recover damages in the amount of \$596.84, the total cost of vehicle repair. In his complaint, plaintiff advised he carries insurance coverage for vehicle repair with a \$250.00 deductible provision and he acknowledged his insurer paid \$346.84 toward the cost of repair. Pursuant to the provisions of R.C. 2743.02(D)<sup>1</sup>, plaintiff's damage claim is limited to \$250.00, his insurance coverage deductible. Plaintiff submitted the \$25.00 filing fee and he has requested reimbursement of that cost along with his damage claim.

{¶ 2} 2) Defendant filed an investigation report admitting liability for the damage to plaintiff's vehicle.

---

<sup>1</sup> R.C. 2743.02(D) provides in pertinent part:

"(D) Recoveries against the states shall be reduced by the aggregate of insurance proceeds,

## CONCLUSIONS OF LAW

{¶ 3} 1) Negligence on the part of defendant has been established. *Johnson v. State Highway Patrol* (2002), 2001-12347-AD; *Zapf v. Highway Patrol*, Ct. of Cl. No. 2006-07511-AD, 2007-Ohio-3104; *Landman v. Ohio State Highway Patrol*, Ct. of Cl. No. 2007-01801-AD, 2007-Ohio-2414; *Hutchison v. State Highway Patrol*, Ct. of Cl. No. 2008-06318-AD, 2008-Ohio-5627; *Kovacik v. Ohio State Hwy. Patrol*, Ct. of Cl. No. 2008-09619-AD, 2009-Ohio-1592.

{¶ 4} 2) Plaintiff has suffered damages in the amount of \$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.

## 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)

ARTHUR L. MIRTO

Plaintiff

v.

TRUMBULL CORRECTION INSTITUTION

Defendant

Case No. 2009-08969-AD

Deputy Clerk Daniel R. Borchert

---

disability award, or other collateral recovery received by the claimant.”

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:

Arthur L. Mirto  
5677 Stanford Avenue  
Austintown, Ohio 44515

Gregory C. Trout, Chief Counsel  
Department of Rehabilitation  
770 West Broad Street  
Columbus, Ohio 43222

RDK/laa  
2/25  
Filed 3/12/10  
Sent to S.C. reporter 7/1/10