



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

EDWARD A. THOMAS, : Case No. 2011-05581-AD

Plaintiff,

v. : Acting Clerk Daniel R. Borchert

OHIO DEPARTMENT OF TRANSPORTATION,

Defendant. : ENTRY OF DISMISSAL

{¶ 1} On April 7, 2011, plaintiff, Edward A. Thomas, filed a complaint against defendant, Department of Transportation. Plaintiff asserts while traveling on State Route 82 on March 14, 2011 at approximately 6:30 a.m. in his 2011 Chevrolet Cruze, he struck a series of potholes which caused tire and rim and related damages to his vehicle. Plaintiff submitted a number of photographs which show the potholes exist near or at the railroad tracks which cross SR 82. Plaintiff seeks damages in the amount of \$525.00, which represents his insurance deductible plus reimbursement of the \$25.00 filing fee he submitted with the complaint.

{¶ 2} On June 10, 2011, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "Defendant's investigation reveals that the Norfolk Southern Railroad is at milepost 2.75 on SR 82 in Trumbull County (See Exhibit A and destape). Defendant asserts that the location is not the maintenance responsibility of the Department of Transportation.

{¶ 4} "Defendant asserts that it is not responsible for the maintenance of the roadway within the railroad crossing area because (of) Ohio Revised Code Section 4955.20 . . .

{¶ 5} "In sum, O.R.C. Section 4955.20 requires that the railroad company

maintains the roadway within the railroad crossing area of SR 82 in Trumbull County.”

Plaintiff has not responded to defendant’s motion to dismiss.

{¶ 6} “R.C. 4955.20 in pertinent part states:

{¶ 7} “Companies operating a railroad in this state shall build and keep in repair good and sufficient crossings over or **approaches to such railroad**, its tracks, sidetracks, and switches, at all points **where any public highway**, street, lane, alley, road, or pike is **intersected by such railroad**, its tracks, sidetracks, or switches.” (Emphasis added.)

{¶ 8} The site of the damage-causing incident was not the maintenance jurisdiction of defendant. The defendant’s motion to dismiss is GRANTED. The case is DISMISSED. The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Acting Clerk

Entry cc:
Edward A. Thomas

Thomas P. Pannett
Department of Transportation
1980 West Broad Street
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