



# 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

DIANA J. NAFZIGER, : Case No. 2011-06871-AD  
Plaintiff, :  
v. : Acting Clerk Daniel R. Borchert  
OHIO TURNPIKE COMMISSION, :  
Defendant. : ENTRY OF DISMISSAL

{¶ 1} On May 3, 2011, plaintiff, Diana Nafziger, filed a complaint against the Ohio Turnpike Commission. Plaintiff asserts while traveling on the turnpike near mile marker 95, she was directed off the traveled portion of the roadway onto the berm by four turnpike workers. While traveling on the berm as directed she struck metal debris resulting in a flat tire. Plaintiff seeks damages in the amount of \$136.07 for the repair and related expenses. Plaintiff submitted the filing fee with her complaint.

{¶ 2} On May 9, 2011, defendant filed a motion to dismiss pursuant to Civ.R. 12(B)(1), lack of subject matter jurisdiction. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “The court of claims is a court of limited jurisdiction which is empowered by Ohio Revised Code Chapter 2743, also known as the Court of Claims Act . . .

{¶ 4} “It is significant to note that the Commission is governed by Chapter 5537 of the Ohio Revised Code, which is also known as the Ohio Turnpike Act. The Ohio Turnpike Act was adopted by the General Assembly effective September 1, 1949. It **precedes** the effective date of the Court of Claims Act, January 1, 1975, by more than 25 years.

{¶ 5} “Therefore, it is axiomatic that the Ohio Turnpike Commission may sue or

be sued pursuant to the express provisions of the Ohio Turnpike Act only, and that the Court of Claims lacks subject matter jurisdiction to hear and allow this case to proceed toward merit resolution.”

{¶ 6} Plaintiff has not responded to defendant’s motion to dismiss.

{¶ 7} R.C. 2743.02(A)(1) in pertinent part states:

{¶ 8} “The State hereby waives its immunity from liability and consents to be sued, have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter, and, in the case of state universities or colleges, in §3345.40 of the Revised Code, and except as provided in division (A)(2) of this section. To the extent the state has previously consented to be sued, this chapter has no applicability.”

{¶ 9} R.C. 5537.04(A)(4) in pertinent part states:

{¶ 10} “(A) The Ohio Turnpike Commission may do any of the following:

{¶ 11} “(4) Sue and be sued in its own name, plead and be impleaded, provided any actions against the commission shall be brought in the court of common pleas of the county in which the principal office of the commission is located, or in the court of common pleas of the county in which the cause of action arose if that county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the commission by leaving a copy thereof at its principal office with the secretary-treasurer or executive director of the commission . . .”

{¶ 12} It is well settled that the Court of Claims does not have jurisdiction over matters involving the Ohio Turnpike Commission. *Zaniewski v. Ohio Turnpike Commission* (1994), 94-07331; *Citizens Insurance Co. of America v. Ohio Turnpike Commission* (1989), 88-10368-AD; *Prime Inc. v. Ohio Turnpike Commission* (1984), 84-01186-AD.

{¶ 13} Having considered all the evidence in the claim file and, for the

reasons set forth above, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. The court shall absorb the court costs of this case.

---

DANIEL R. BORCHERT  
Acting Clerk

Entry cc:

Diana J. Nafziger

Noelle T. Tsevdos  
Ohio Turnpike Commission  
682 Prosect Street  
Berea, Ohio 44017