

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 L. MELVIN II

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2009-09612-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Edward L. Melvin II, filed this complaint against defendant, Department of Transportation (ODOT), alleging that he suffered substantial damage to his clothing and the motorcycle he was driving as a proximate cause of negligence on the part of ODOT in maintaining a hazardous roadway condition on State Route 73. Plaintiff related he attempted to turn right onto State Route 73 (West Central Avenue) after exiting Interstate 75 in Springboro, Ohio, when the motorcycle he was driving “slipped out from underneath me” due to “an oil slick” on the roadway. Plaintiff recalled the incident occurred on November 13, 2009 at approximately 5:15 p.m. Plaintiff seeks damages in the amount of \$1,986.45, the cost of motorcycle repair and replacement clothing. The filing fee was paid.

{¶ 2} 2) Defendant filed an investigation report requesting plaintiff’s claim be dismissed due to the fact the City of Springboro and not ODOT bears the maintenance responsibility for the section of State Route 73 where plaintiff’s incident occurred. In support of the request to dismiss, ODOT stated, “[d]efendant has performed an

investigation of this site and I-75 at SR 73 falls under the maintenance jurisdiction of the City of Springboro in Warren County (see attached maps).” ODOT further stated, “[a]s such, this section of roadway is not within the maintenance jurisdiction of defendant.” The site of the damage-causing incident was located in the City of Springboro.

CONCLUSIONS OF LAW

{¶ 3} Ohio Revised Code Section 5501.31 in pertinent part states:

{¶ 4} “Except in the case of maintaining, repairing, erecting traffic signs on, or pavement marking of state highways within villages, which is mandatory as required by section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, no duty of constructing, reconstructing, widening, resurfacing, maintaining, or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director . . .”

{¶ 5} The site of the damage-causing incident was not the maintenance jurisdiction of defendant. Consequently, plaintiff’s case is dismissed.

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ENTRY OF ADMINISTRATIVE DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in above, plaintiff's case is DISMISSED. The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Edward L. Melvin II
2566 Rockcastle Court
Miamisburg, Ohio 45342

Jolene M. Molitoris, Director
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1980 West Broad Street
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RDK/laa
4/21
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