

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

NANCY WAITUIKA

Plaintiff

v.

OFFICE OF PROPERTIES AND FACILITIES

Defendant

Case No. 2010-05757-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Nancy Waituika, filed this action against defendant, Department of Administrative Services (DAS), contending that her 2000 Honda Odyssey was damaged by malfunctioning traffic control bollards located at the exit-entrance of the State of Ohio Computer Center, a facility operated by DAS. Plaintiff seeks damages in the amount of \$500.00, her insurance deductible for repair expenses and related costs. The \$25.00 filing fee was paid and plaintiff requested reimbursement of that cost along with her damage claim.

{¶ 2} 2) Defendant filed an investigation report admitting liability and acknowledging plaintiff Nancy Waituika suffered damages in the amount of \$500.00.

CONCLUSIONS OF LAW

{¶ 3} 1) Plaintiff has the burden of proving, by a preponderance of the evidence, that the particular traffic control malfunctioned during normal and intended use. *Saunders v. The Ohio State University* (1993), 93-05245-AD. To make such a showing, plaintiff must produce sufficient evidence or documentation to satisfy the trier

of fact. *Saunders*.

{¶ 4} 2) After review of plaintiff's complaint, the defendant's investigation report and other evidence in the case file, the court makes the following determination. The court concludes plaintiff has proven her vehicle was damaged by malfunctioning traffic control bollards located on the premises of the defendant. *Consortium Communications, Inc. v. Ohio Department of Youth Services* (2002), 2002-01420-AD. Therefore, defendant is liable to plaintiff for damages of \$500.00, 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.



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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 \$525.00, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Nancy Waituika
5908 Sonoma Court
Columbus, Ohio 43229

Paul A. J. Gunnell
Office of Properties and Facilities
1320 Arthur E. Adams Drive
Columbus, Ohio 43221

RDK/laa
7/22
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