



# 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

ANTHONY SMALLWOOD

Plaintiff

v.

MIAMI UNIVERSITY

Defendant

Case No. 2011-12471-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

### FINDINGS OF FACT

{¶1} On June 19, 2011, plaintiff, Anthony Smallwood, sustained property damage to his automobile when an employee of defendant, Miami University, negligently drove a golf cart and struck plaintiff's vehicle. Specifically, the car suffered damage to the front bumper and passenger side signal lamp. Plaintiff seeks damages in the amount of \$304.03, the cost of related repairs and reimbursement of the filing fee. Plaintiff indicated he maintains insurance coverage for the vehicle with a \$250.00 deductible. The \$25.00 filing fee was paid.¶

{¶2} Plaintiff asserted in the complaint that defendant's insurer "falsely maintained, without any supporting evidence, that plaintiff was contributorily [sic] negligent for the accident and refused to discuss proposed changes to the settlement agreement."

{¶3} On December 5, 2011, defendant submitted an investigation report wherein defendant suggested that plaintiff's filing was frivolous such that plaintiff should

be directed to sign the standard release, denied reimbursement for payment of the filing fee, and assessed costs for filing the complaint.

{¶4} On December 29, 2011, plaintiff filed a response asserting that the terms of the settlement agreement were unacceptable to him in that the release “allows the Defendant to absolve itself from liability while simultaneously reserving its rights to seek recovery against the Plaintiff.”

{¶5} Upon review, the trier of fact finds that plaintiff did not engage in frivolous conduct by filing this complaint. R.C. 2323.51(A)(2)(a). See also *Ruffian, LLC v. Hayes*, Franklin App. No. 09AP-948, 2011-Ohio-831.

#### CONCLUSIONS OF LAW

{¶6} Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff’s property. The evidence in the present claim establishes defendant’s employee was negligent in driving the golf cart and such conduct proximately caused plaintiff’s damage. Negligence on the part of defendant has been shown. *Baker v. Miami University*, Ct. of Cl. No. 2005-06309-AD, 2005-Ohio-5074.

{¶7} R.C. 3345.40(B)(2) states in pertinent part:

{¶8} “If a plaintiff receives *or is entitled to receive* benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against the state university or college recovered by plaintiff.” (Emphasis added.)

{¶9} Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the automotive repair expenses shall be limited to \$ 250.00, plaintiff’s stated insurance deductible.

{¶10} Plaintiff has suffered damages in the amount of \$250.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *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)

ANTHONY SMALLWOOD

Plaintiff

v.

MIAMI UNIVERSITY

Defendant

Case No. 2011-12471-AD

Deputy Clerk Daniel R. Borchert

## 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:

Jennifer L. Jung  
5885 Pleasant Chapel Road  
Mechanicsburg, Ohio 43044

Paul S. Allen  
Miami University  
Roudebush Hall, Room 14  
Oxford, Ohio 45056

SJM/laa

1/9

Filed 2/3/12

sent to S.C. Reporter 7/17/12