

sides by a grass lawn with surrounding trees and brush. As part of setting up for camping a sliding room extension was pulled from the right side of plaintiff's camper. This camper extension protruded from the asphalt slab where plaintiff's camper trailer was parked over the abutting grass lawn. The sliding extension room was apparently left in place for the duration of the camping activity.

{¶ 3} On June 15, 2004, plaintiff left the F-Loop campsite for the day. At sometime while plaintiff was away, defendant's employee, identified as Brad Dobney, mowed the grass lawn at the F-Loop campsite area. Dobney used a tractor mower to perform the grass mowing operation. Plaintiff stated he discovered damage to the sliding room of his camper trailer on June 16, 2004, the day after mowing was conducted at the F-Loop area. After observing the property damage, plaintiff summoned Park employee, Officer R.C. Knepper to the scene and an incident report was compiled. In the report, Knepper wrote plaintiff observed a Park maintenance worker mowing grass around F-Loop on June 15, 2004. On June 16, 2004, plaintiff reported his property damage to Knepper and Brad Dobney brought a Park mower to the campsite, "to check the height of anything that could possibly hit at the level of the camper." Knepper related, "[e]verything cleared on the mower, but the rear tires." Knepper further related, "[b]y the height of the tires with the freshly cut grass matching where the deck would be located *** would be very likely that our State mower's left tire caught the corner of the camper extension." However, after making close inspection of the damage to the camper, Knepper surmised the damage was not recent due to the presence of rust under the rubber seal of the camper's vertical molding. Photographs were taken of the camper, the Park mower, the campsite area, and the particular damaged areas of the camper.

{¶ 4} As part of the incident report, plaintiff wrote a

voluntary witness statement. Plaintiff submitted the following written narrative of his recollections:

{¶ 5} "6/15/04 10:30 AM left camper & campground to go bike riding. Returned approx. 5:30 pm and it was raining hard so we ran inside of trailer. Only thing we noticed was the grass was mowed. Was not out all evening.

{¶ 6} "6/16/04 We came out of the trailer to leave for a ride and noticed the left front of slide out room trim was bent & also notice the mower path was in line of damage. Damage was not there when we parked. Contacted Ranger and he had mower brought down. After making a pass with mower in same tracks it was plain to see the rear tire had caused damage to the trailer."

{¶ 7} Park employee, Brad Dobney, also wrote a voluntary witness statement at approximately 1:26 p.m. on June 16, 2004. In this statement Dobney noted: "I mowed F-Loop on 15 June 2004 from 10:30 until 1:30. Upon leaving I noticed the damage on the trailer in question. I reported what I had seen to my supervisor, Eric Williams at 2:00."

{¶ 8} Defendant denied any liability in this matter. Defendant contended plaintiff failed to produce sufficient evidence to establish his property damage was proximately caused by the negligent operation of a tractor mower.

{¶ 9} Defendant submitted a witness statement from Brad Dobney concerning his recollection of the events of June 15, 2004, and June 16, 2004. Dobney, in this statement produced on November 10, 2004, denied ever making contact with plaintiff's camper trailer while mowing the F-Loop area on June 15, 2004. The entire reproduced statement noted the following information: "On 15 June 2004 I mowed F Loop from 10:30 a.m. until 1:30 p.m. I noticed the damage to the trailer in question as I left the loop and reported it to my supervisor, Eric Williams. At no point during this time,

or any other time, did I or my mower come in contact with the trailer in question. I responded to the complaints that day or the next and gave a written and verbal statement to Officer Russ Knepper. I stated at that time that I had not hit or in any way damaged the trailer that was located in that area. I still maintain that I never came into any sort of contact with the trailer and at no point did I cause any damage. When we returned to the scene later that day Officer Knepper and I observed rust and dried leaves on the area that was supposedly recently damaged."

{¶ 10} Defendant disputes plaintiff's allegation that his property damage was caused by contact with a Park tractor mower on June 15, 2004. Defendant pointed out Park employee, Brad Dobney denied hitting any part of plaintiff's camper trailer with any part of the Park tractor mower. Defendant submitted photographs of plaintiff's damaged camper trailer taken on June 16, 2004. The photographs clearly depict some damaged areas display rust corrosion. Photographs of other damaged areas do not depict the presence of rust, but do show some property damage that appears to have been caused by some implement engaged in a prying or ripping action. Defendant denied the damage causing implement was owned by or connected to Caesar Creek State Park.

{¶ 11} Plaintiff acknowledged the submitted photographs of his property damage show areas of rust under the rubber seal of the vertical molding. Plaintiff explained rust is also present under the rubber seal of the undamaged area of his camper trailer. Plaintiff asserted the appearance of rust on the part of the damaged area of his camper trailer does not prove his property damage occurred prior to June 15, 2004, and does not rule out the possibility the damage could have been caused by defendant's mowing activity. Plaintiff disputes Brad Dobney's statement regarding the events of June 15, 2004. However, plaintiff has not presented any

evidence to corroborate his allegation that his trailer was damaged by the negligent operation of defendant's tractor mower.¹

{¶ 12} In order to prevail on his negligence claim, plaintiff must prove, by a preponderance of the evidence, that defendant owed him a duty, defendant breached that duty, and defendant's breach of duty proximately caused his injury. *Strother v. Hutchinson* (1981), 67 Ohio St. 2d 282, 285. Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property while conducting grass mowing operations. See *Harris v. Caesar Creek State Park* (2001), 2001-07157-AD. However, plaintiff must produce evidence which furnishes a reasonable basis for sustaining his claim. If his evidence furnishes a basis for only a guess, among different possibilities, as to any essential issues in the case, he fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.* (1954), 161 Ohio St. 82.

{¶ 13} Plaintiff as the burden of proving, by a preponderance of the evidence, that he suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD. Plaintiff has failed to produce sufficient evidence to establish any act of defendant's employee caused the property damage to his camper trailer. Plaintiff's claim is denied.

IN THE COURT OF CLAIMS OF OHIO

ROBERT S. LEWIS :
Plaintiff :
v. : CASE NO. 2004-08502-AD

¹ Plaintiff filed a response on February 10, 2005.

CAESAR CREEK STATE PARK, : ENTRY OF ADMINISTRATIVE
et al. : DETERMINATION
Defendants :

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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 defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
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