

12, 2004, March 30, 2005, and again on April 13, 2005 after receiving a phone call from plaintiff. Consequently, defendant suggested plaintiff's property damage was not caused by any construction material spalling from the Interstate 90 overpass.

{¶ 4} Defendant has the duty to maintain its highways in a reasonably safe condition for the motoring public. *Knickel v. Ohio Department of Transportation* (1976), 49 Ohio App. 2d 335. DOT has the duty to maintain the system of highways free from unreasonable risk of harm by exercising ordinary reasonable care. *White v. Ohio Dept. of Transp.* (1990), 56 Ohio St. 3d 39, 42. However, DOT is not an insurer of the safety of its highways. *Rhodus v. Ohio Dept. of Transp.* (1990), 67 Ohio App. 3d 723.

{¶ 5} For plaintiff to prevail on a claim of negligence, she must prove, by a preponderance of the evidence, that defendant owed her a duty, that it breached that duty, and that the breach proximately caused her injuries. *Strother v. Hutchinson* (1981), 67 Ohio St. 2d 282, 285. Plaintiff has the burden of proving, by a preponderance of the evidence, that she suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD. However, [i]t is the duty of a party on whom the burden of proof rests to produce evidence which furnishes a basis for sustaining his claim. If the evidence so produced furnishes only a basis for a choice among different possibilities as to any issue in the case, he failed to sustain such burden." Paragraph three of the syllabus in *Steven V. Indus. Comm.* (1945), 145 Ohio St. 198, approved and followed.

{¶ 6} This court has previously held DOT liable for property damage resulting from falling debris. *Elsey v. Dept. of Transportation* (1989), 89-05775-AD. This court, as the trier of fact, determines questions of proximate causation. *Shinaver v. Szymanski* (1984), 14 Ohio St. 3d 51. In the instant claim,

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