

[Cite as *Hoelle v. Miami Univ.*, 2005-Ohio-4643.]

IN THE COURT OF CLAIMS OF OHIO

DAVID K. HOELLE	:	
Plaintiff	:	
v.	:	CASE NO. 2005-06970-AD
MIAMI UNIVERSITY	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

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FINDINGS OF FACT

{¶ 1} 1) On May 23, 2005, plaintiff, David K. Hoelle, filed a complaint against defendant, Miami University, alleging his truck was damaged as a result of negligence on the part of defendant's employee in conducting maintenance activity on University grounds.

{¶ 2} 2) Plaintiff sought damages in the amount of \$1,538.55, his cost for vehicle repair, plus filing fees. Plaintiff acknowledged he carries insurance coverage for vehicle property damage with a \$350.00 deductible provision. The \$25.00 filing fee was paid.

{¶ 3} 3) On June 29, 2005, defendant filed an investigation report admitting liability for plaintiff's property damage, but asserting his recovery should be limited by any available collateral source recovery.

CONCLUSIONS OF LAW

{¶ 4} 1) Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property while performing any maintenance work. In regard to the facts of this claim, negligence on the part of defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart*

v. *Ohio National Guard* (1979), 78-0342-AD;

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

{¶ 6} 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."

{¶ 7} Thus, pursuant to the statutory requirement of R.C. 3345.40(B)(2), compensation for the automotive repair expenses is subject to available collateral sources.

{¶ 8} 3) Plaintiff has suffered damages in the amount of \$350.00, 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.

IN THE COURT OF CLAIMS OF OHIO

DAVID K. HOELLE	:	
Plaintiff	:	
v.	:	CASE NO. 2005-06970-AD
MIAMI UNIVERSITY	:	<u>ENTRY OF ADMINISTRATIVE</u>
Defendant	:	<u>DETERMINATION</u>

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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 plaintiff in the amount of \$375.00, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties

