



Streets within The City of Avondale”;

{¶6} 4) Plaintiff has not responded to defendant’s motion to dismiss.

{¶7} THE COURT CONCLUDES THAT:

{¶8} 1) R.C. 5501.31 in pertinent part states:

{¶9} “. . . no duty of constructing, reconstructing, widening, resurfacing, maintaining or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director but . . .”;

{¶10} 2) R.C. 723.01 in pertinent part states:

{¶11} “Except as provided in Section 5501.49 of the Revised Code, the legislative authority of a municipal corporation shall have the care, supervision, and control of the public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts, and viaducts within the municipal corporation, and the municipal corporation shall cause them to be kept open, in repair, and free from nuisance.”;

{¶12} 3) The site of plaintiff’s damage causing incident is not in the maintenance responsibility of defendant. Accordingly, defendant is not the appropriate party to sue in this case.

{¶13} IT IS ORDERED THAT:

{¶14} 1) Defendant’s motion to dismiss is GRANTED;

{¶15} 2) Plaintiff’s case is DISMISSED;

{¶16} 3) The court shall absorb the court costs of this case in excess of the filing fee.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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DRB/tad  
5/6  
Filed 5/22/03  
Sent to S.C. reporter 6/11/03