

outside address or authorize the destruction of the property. Defendant denied any liability in this matter.

{¶5} 5) Plaintiff filed a response insisting he is entitled to all damages claimed including those damages for “mental injury and stress.” The trier of fact does not believe plaintiff suffered any mental injury or stress due to the fact he was prevented from receiving models.

CONCLUSIONS OF LAW

{¶6} 1) The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42.

{¶7} 2) The state cannot be sued for the exercise of any executive or planning function involving the making of a policy decision characterized by the use of a high degree of discretion. *Reynolds v. State* (1984), 14 Ohio St. 3d 68.

{¶8} 3) Plaintiff has failed to prove, by a preponderance of the evidence, he suffered any loss as a result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶9} 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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