

[Cite as *Bumpus v. Bur. of Motor Vehicles*, 2004-Ohio-4589.]

IN THE COURT OF CLAIMS OF OHIO

LARRY D. BUMPUS :  
Plaintiff :  
v. : CASE NO. 2004-01117-AD  
BUREAU OF MOTOR VEHICLES : MEMORANDUM DECISION  
Defendant :

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FINDINGS OF FACT

{¶1} On or about October 1, 2003, defendant, Bureau of Motor Vehicles (BMV), sent plaintiff, Larry D. Bumpus, an official written notice informing him that his driver’s license was being suspended due to failure to maintain financial responsibility (car insurance coverage). This notice also instructed plaintiff he could have his driving privileges restored by submitting a certificate of insurance to BMV proving he carried insurance coverage. Plaintiff did not disclose the approximate date he received the suspension notice dated October 1, 2003.

{¶2} On or about October 6, 2003, BMV sent plaintiff a letter informing him that the suspension notice of October 1, 2003, was generated in error. Consequently, plaintiff seemingly retained driving privileges and seemingly his insurance coverage status was in good standing as far as BMV was concerned. BMV did acknowledge making a mistake in sending the October 1, 2003, notice of suspension. Plaintiff did not disclose the approximate date he received the letter apparently negating the suspension notice.

{¶3} Plaintiff related that after he received the suspension notice from defendant he contacted his insurance agent, presumed by telephone. Plaintiff asserted he was required to go to his insurance agent’s office to obtain verification of insurance proof to submit to BMV. After receiving this verification of insurance coverage from his insurance agent, plaintiff stated he

forwarded the verification documents to BMV. Plaintiff maintained he missed two days of work seemingly in his endeavor to obtain the proof of insurance document from his insurance agent. Plaintiff submitted a document from his employer confirming he missed work on Sunday, October 12, 2003, and Monday, October 13, 2003. Plaintiff explained one of his family members drove him to “all those places requiring current verification.”

{¶4} Plaintiff contended he received the letter from BMV countermanding the suspension notice after he obtained the proof of insurance documents and sustained work loss. Plaintiff professed the erroneous suspension notice caused him, “a great deal of inconvenience dealing with the fear of going to jail if I drove and not being able to drive for a week.” Plaintiff argued defendant’s error in sending him a driving privilege suspension notice caused him to suffer damages. Plaintiff, consequently, filed this complaint seeking to recover \$182.25 for work loss, \$20.00 for, “my family member who drove me around to all those places,” \$20.00 for, “gas to my family member’s car,” and \$277.75 for, “mental anguish” attributable to receiving the suspension notice from BMV. Plaintiff also seeks recovery of the \$25.00 filing fee which was paid when the complaint was filed. Total damages claimed amount to \$525.00.

{¶5} Defendant explained plaintiff’s driver’s license was suspended, “for failure to maintain proof of financial responsibility/liability insurance as required by R.C. 4509.101.” This financial responsibility (FRA) suspension was to last for a period of five years, from March 31, 2000, to March 31, 2005. Plaintiff was permitted to drive while under the FRA suspension as long as he maintained proof of insurance by having this proof submitted periodically to BMV in document form identified as an SR-22. SR-22 documents were to be filed with BMV for the length of plaintiff’s five year suspension in order for him to maintain his driving privileges.

{¶6} During the suspension period, in the summer months of 2003, plaintiff allowed his insurance coverage to lapse and no new SR-22 proof of insurance document was filed at BMV. On August 13, 2003, defendant sent plaintiff a notice of suspension letter, essentially informing him that his driving privileges were revoked until a new proof of insurance SR-22 form was filed with BMV. Again on August 28, 2003, defendant sent plaintiff a second notice of suspension letter relating

BMV records showed plaintiff was not in compliance with FRA suspension requirements for driving privileges due to an insurance coverage lapse. At sometime between August 28, 2003, and October 1, 2003, defendant received a new SR-22 proof of insurance document establishing plaintiff did maintain insurance coverage.

{¶7} On October 1, 2003, defendant mistakenly generated a third notice of suspension letter to plaintiff informing him his driving privileges were revoked based on his alleged failure to maintain valid insurance coverage proof with BMV. Defendant acknowledged this suspension notice was sent in error. Defendant subsequently

{¶8} recognized this error and transmitted another letter, dated October 6, 2003, admitting the October 1, 2003, notice of suspension was erroneous, plaintiff was complying with FRA suspension requirements, and, consequently, plaintiff's driving privileges had not been revoked. Apparently, defendant sent the October 6, 2003, admission of error correspondence in response to contacts made by plaintiff on October 6, 2003, when he either notified BMV that SR-22 proof was on file or supplied the proof himself.

{¶9} Although admitting error in sending the October 1, 2003, suspension notice, defendant has contended plaintiff failed to prove he suffered any damages based on the acknowledged error. Defendant has argued plaintiff did not provide sufficient evidence to establish the damages claimed were causally related to the inaccurate publication by BMV of plaintiff's license status.

#### CONCLUSIONS OF LAW

{¶10} Resulting damages may be recovered when a plaintiff proves, by a preponderance of the evidence, his driver's license was erroneously listed as suspended by defendant. *Ankney v. Bureau of Motor Vehicles* (1998), 97-11045-AD; *Serbanescu v. Bureau of Motor Vehicles* (1994), 93-15038-AD; *Black v. Bureau of Motor Vehicles* (1996), 95-01441-AD. These damages must directly flow from defendant's failure to convey accurate information. *Henighan v. Ohio Dept. of Public Safety* (1997), 97-01619-AD; *Jordan v. Bureau of Motor Vehicles* (1998), 97-10341-AD.

{¶11} Plaintiff has proven, by a preponderance of the evidence, that his driver's license was improperly listed as suspended by defendant. *McGee v. Ohio Bureau of Motor Vehicles* (1997), 97-

03999-AD. Defendant is liable to plaintiff for damages plaintiff can prove resulted from defendant's failure to provide correct information. *Partlow v. Bureau of Motor Vehicles* (1997), 97-07820-AD. In the instant claim, plaintiff has failed to prove his work loss resulted from any act or omission attributable to defendant.

{¶12} Emotional distress, embarrassment and humiliation are recognized elements of damages and, thus, compensable by this court. *Ankney*, supra. The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. Where the existence of damage is established, the evidence need only tend to show the basis for the computation of damages to a fair degree of probability. *Brewer v. Brothers* (1992), 82 Ohio App. 3d 148. Only reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782. Defendant is liable to plaintiff for his transportation expenses and emotional distress, which the trier of fact has calculated at \$150.00. Defendant is also liable to plaintiff for the \$25.00 filing fee, pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

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LARRY D. BUMPUS :  
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BUREAU OF MOTOR VEHICLES : ENTRY OF ADMINISTRATIVE  
Defendant : DETERMINATION

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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 \$175.00, which includes the filing fee. Court costs are assessed against defendant. 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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