



highways. *Hennessey v. State of Ohio Highway Department* (1985), 85-02071-AD.

{¶ 7} In order to recover on a claim of this type, plaintiff must prove either: 1) defendant had actual or constructive notice of the defect (broken reflector) and failed to respond in a reasonable time or responded in a negligent manner, or 2) that defendant, in a general sense, maintains its highways negligently. *Denis v. Department of Transportation* (1976), 75-0287-AD.

{¶ 5} There is no evidence defendant had actual notice of the damage-causing reflector.

{¶ 6} The trier of fact is precluded from making an inference of defendant’s constructive notice, unless evidence is presented in respect to the time the defective condition (broken reflector) appeared on the roadway. *Spires v. Highway Department* (1988), 61 Ohio Misc. 2d 262.

{¶ 7} In order for there to be constructive notice, plaintiff must show sufficient time has elapsed after the dangerous condition (loosened reflector) appears, so that under the circumstances, defendant should have acquired knowledge of its existence. *Guiher v. Jackson* (1978), 78-0126-AD.

{¶ 8} No evidence has shown defendant had constructive notice of the damage-causing reflector.

{¶ 9} Plaintiff has not submitted any evidence to prove the roadway was negligently maintained.

IN THE COURT OF CLAIMS OF OHIO

GREGORY FELTER	:	
Plaintiff	:	
v.	:	CASE NO. 2004-05783-AD

OHIO DEPT. OF TRANSPORTATION, DISTRICT 3	:	<u>ENTRY OF ADMINISTRATIVE DETERMINATION</u>
Defendant	:	
	:	

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.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Gregory Felter  
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Plaintiff, Pro se

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For Defendant

DRB/RDK/laa  
8/25  
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