[Cite as *Gallagher v. Columbus State Community College*, 2006-Ohio-367.]

IN THE COURT OF CLAIMS OF OHIO

JAMES GALLAGHER	:	
Plaintiff	:	
v.	:	CASE NO. 2005-09588-AD
COLUMBUS STATE COMMUNITY COLLEGE	:	MEMORANDUM DECISION
Defendant	:	

: : : : : : : : : : : : : : : : :

{¶ 1} On June 9, 2005, plaintiff, James Gallagher, sustained property damage to his automobile while parking the vehicle in a designated parking space at the Bridgeview Golf Course, a property owned by defendant, Columbus State Community College. Specifically, the bumper cover and splash panel of plaintiff's car was damaged when it caught on a piece of rebar protruding from a parking block located at the end of a parking space on the golf course parking lot.

{¶ 2} Plaintiff filed this complaint seeking to recover $150.00, his insurance coverage deductible for automotive repair resulting from the June 9, 2005, incident. The filing fee was paid.

{¶ 3} Plaintiff was present on defendant's premises for such purposes which would classify him under law as an invitee. *Scheibel v. Lipton* (1985), 156 Ohio St. 308, 102 N.E. 2d 453. Consequently, defendant was under a duty to exercise ordinary care for the safety of invitees such as plaintiff and to keep the premises in a reasonably safe condition for normal use. *Presley v. City of Norwood* (1973), 36 Ohio St. 2d 29. The duty to exercise ordinary care for the safety and protection of invitees such as plaintiff includes having the premises in a reasonably safe condition and warning of latent or concealed defects or perils

which the possessor has or should have knowledge. *Durst v. VanGundy* (1982), 8 Ohio App. 37 72; *Wells v. University Hospital* (1985), 85-01392-AD. As a result of plaintiff's status, defendant was also under a duty to exercise ordinary care in providing for plaintiff's safety and warning him of any condition on the premises known by defendant to be potentially dangerous. *Crabtree v. Shultz* (1977), 57 Ohio App. 2d 33.

{¶ 4} Although the owner owes this duty of ordinary care, "the liability of an owner or occupant to an invitee for negligence in failing to render the premises reasonably safe for the invitee, or in failing to warn him of dangers thereon, must be predicated upon a superior knowledge concerning the dangers of the premises to persons going thereon." 38 American Jurisprudence, 757, Negligence, Section 97, as cited in *Debie v. Cochran Pharmacy Berwick, Inc.* (1967), 11 Ohio St. 2d 38, 40. In the instant case, it is not obvious or apparent plaintiff had any knowledge of the protruding rebar. Considering a driver's position in an automobile, and the position of the parking block on the ground, it is probable the rebar was never seen as plaintiff entered and exited the parking space. Therefore, the court finds defendant had superior knowledge of the hazardous condition and failed to warn plaintiff of the condition or remove it. See *21st Century Leasing, Inc. v. Ohio Dept. of Natural Resources* (1999), 98-08994-AD.

{¶ 5} Defendant was charged with a duty to exercise reasonable care for the protection of plaintiff's property. In regard to the facts of this claim, negligence on the part of defendant has been shown. *Jackson v. University of Akron* (2001), 2001-04026-AD. Consequently, defendant is liable to plaintiff for the loss claimed, $150.00, 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.

JAMES GALLAGHER	:	
Plaintiff	:	
v.	:	CASE NO. 2005-09588-AD
COLUMBUS STATE COMMUNITY COLLEGE	:	ENTRY OF ADMINISTRATIVE DETERMINATION
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 plaintiff in the amount of $175, 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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RDK/laa
1/11
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