[Cite as Topping v. Ohio Dept. of Transp., 2006-Ohio-7218.]

IN THE COURT OF CLAIMS OF OHIO

DOROTHY S. TOPPING :

Plaintiff :

v. : CASE NO. 2006-02650-AD

OHIO DEPARTMENT OF : ENTRY OF DISMISSAL

TRANSPORTATION

:

Defendant

- {¶1} On March 23, 2006, plaintiff, Dorothy S. Topping, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on March 13, 2006, she was driving southbound on State Route 104 and had just passed the Meade Paper Mill when she struck a pothole which caused damage to her vehicle. Plaintiff seeks damages in the amount of \$129.97 for automotive repair she asserts was caused by defendant's negligence in maintaining the roadway. Plaintiff submitted the filing fee with the complaint.
- $\{\P\ 2\}$ On April 27, 2006, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:
- $\{\P 3\}$ "Defendant has performed an investigation of this site and SR 104 by the Meade Paper Mill falls under the maintenance jurisdiction of the City of Chillicothe. The Ross County Manager, Aaron Mitten, reviewed the southbound area of SR 104 and took photos of the bridge at the Meade Paper Mill. This area falls under the maintenance jurisdiction of the City of

Chillicothe. (See Exhibit A.) Plaintiff mentions that she was going the speed limit of 50 mph and the speed reduces as you enter the City of Chillicothe. The speed limit is 55 mph outside the city limits of Chillicothe. As such, this section of roadway is not within the maintenance jurisdiction of defendant."

- $\{\P\,4\}$ Plaintiff has not responded to defendant's motion to dismiss. The site of plaintiff's incident was within the City of Chillicothe.
 - $\{\P 5\}$ R.C. 5501.31 in pertinent part states:
- {¶6} "Except in the case of maintaining, repairing, erecting traffic signs on, or pavement marking of state highways within villages, which is mandatory as required by section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, 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."
- $\{\P\ 7\}$ The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff's case is dismissed.

 $\{\P 8\}$ Having considered all the evidence in the claim file and, for the reasons set forth above, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

DANIEL R. BORCHERT

Deputy Clerk

Entry cc:

Dorothy S. Topping P.O. Box 135 Waverly, Ohio 45690-0135

For Defendant Thomas P. Pannett, P.E. Assistant Legal Counsel Department of Transportation 1980 West Broad Street

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