

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

KEITH SWIGART, et al.

Plaintiffs

v.

OHIO UNIVERSITY

Defendant

Case No. 2009-01581-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On November 7, 2008, plaintiff, Jillian Swigart, parked a leased 2003 Mitsubishi Eclipse in a parking garage owned and operated by defendant, Ohio University. The paint finish on the car was damaged when a caustic liquid substance dripped from the ceiling area of defendant's parking garage onto the vehicle. Plaintiffs, Jillian Swigart and Keith Swigart, filed this action seeking to recover \$485.39, the total cost of repairing the damaged 2003 Mitsubishi Eclipse. Plaintiffs have asserted the car was damaged as a proximate cause of negligence on the part of defendant in maintaining the parking garage free of hazardous conditions. The \$25.00 filing fee was paid.

{¶ 2} 2) Defendant filed an investigation report noting: "Ohio University does not contest this claim-our internal investigation confirms the probability of the damage to this car being caused by a leaking substance in the garage."

{¶ 3} 3) Plaintiff, Keith Swigart, filed a response.

CONCLUSIONS OF LAW

{¶ 4} 1) Sufficient proof has been offered to establish the damage to the vehicle was proximately caused by negligence on the part of defendant. *Lee v. University of Akron* (1998), 97-12441-AD; *Warren v. University of Akron* (1999), 99-01683-AD; *Miller v. University of Akron* (2001), 2001-04140-AD.

{¶ 5} 2) Plaintiffs have suffered damages in the amount of \$485.39. The \$25.00 filing fee may be reimbursed as compensable costs pursuant to R.C. 2335.19. See *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

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 plaintiffs in the amount of \$485.39, which includes the filing fee. Judgment for filing fee costs of \$25.00 is rendered in favor of plaintiff, Keith Swigart. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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