

# 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

JEFF POHLER

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2009-02600-AD

Deputy Clerk Daniel R. Borchert

## ENTRY OF DISMISSAL

{¶ 1} On February 25, 2009, plaintiff, Jeff Pohler, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on February 15, 2009 at approximately 6:20 p.m. while traveling “south bound on Mostler Rd in the righthand lane through a construction zone just north of Kemper rd. Kokosing Construction had barriers and barrels directing may vehicle (2004 BMW 645 CI) directly into a damaged part of the roadway. No other path was an option and car drove over a pothole.” Plaintiff seeks damages in the amount of \$2,431.00 for four Custom Chrome wheels, one tire and related costs. The plaintiff asserts he sustained the damage to his vehicle was the result of defendant’s negligent maintenance of the roadway.

{¶ 2} On March 18, 2009, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “Defendant has performed an investigation of this section of Mosteller Road and it falls under the maintenance jurisdiction of the City of Sharonville. (See Attached Map) Kokosing Construction Company, Inc. is working in this area but

repairing potholes is not part of their contract and the City of Sharonville has been repairing potholes on Mosteller Road within the I-275 construction project. As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”

{¶ 4} Plaintiff has not responded to defendant’s motion to dismiss. The site of the damage-causing incident was located in the City of Sharonville.

{¶ 5} Ohio Revised Code Section 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 construction, 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 . . .”

{¶ 7} The site of the damage-causing incident was not the maintenance jurisdiction of defendant. Consequently, plaintiff’s case is dismissed.

{¶ 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. The court shall absorb the court costs of this case.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Jeff Pohler  
5936 Gray Road  
Fairfield, Ohio 45014

DRB/laa  
4/22  
Filed 5/20/09  
Sent to S.C. reporter 9/8/09

Thomas P. Pannett  
Department of Transportation  
1980 West Broad Street  
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