

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

KRISTIN HENSHAW, et al.

Plaintiffs

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2009-04785-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On May 11, 2009, plaintiffs, Kristin Henshaw and Robin Henshaw, filed a complaint against defendant, Department of Transportation. Plaintiffs allege Kristin Henshaw was traveling eastbound on U.S. 25 when she struck a pothole in the traveled portion of the roadway prior to the I-675 split. Plaintiff seeks damages in the amount of \$245.00 for a new tire and rim as the result of the negligence of the defendant. The plaintiffs submitted the filing fee with the complaint.

{¶ 2} 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 site and this area on US 35 before the I-675 split falls under the maintenance jurisdiction of the City of Riverside in Montgomery County or the City of Beavercreek in Greene County. (See attached map and Straight Line Diagrams) Plaintiff’s description of her incident area puts her on the county line which is also the corporation line for these two cities. As such, this section of roadway is not within the maintenance jurisdiction of the defendant.”

{¶ 4} Plaintiffs have not responded to defendant's motion to dismiss. The site of the damage-causing incident was located in either the City of Riverside or the City of Beavercreek.

{¶ 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 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 . . ."

{¶ 7} The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiffs' 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. Plaintiffs' case is DISMISSED. The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa
8/6
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