

Court of Claims of Ohio

The Ohio Judicial Center
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Columbus, OH 43215
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JOYCE D. POWELL-MILLER

Case No. 2007-01185-AD

Plaintiff

Clerk Miles C. Durfey

v.

ENTRY OF DISMISSAL

OHIO DEPARTMENT OF
TRANSPORTATION

Defendant

{¶ 1} On October 28, 2006, plaintiff, Joyce D. Powell-Miller, was traveling on State Route 2 (Airport Highway) in a construction area within the City of Toledo, when her automobile struck a pothole causing tire and wheel damage to the vehicle. Plaintiff filed this complaint against defendant, Department of Transportation (DOT), alleging that her property damage was proximately caused by negligence on the part of DOT in maintaining State Route 2 (Airport Highway). Plaintiff seeks damages in the amount of \$623.88 for replacement parts and automotive repair expenses resulting from the October 28, 2006, incident. The filing fee was paid.

{¶ 2} Defendant contended that DOT does not bear the maintenance responsibility for the portion of State Route 2 where plaintiff's property-damage event occurred; that the City of Toledo is responsible for maintaining the roadway referenced in this complaint; that DOT is not the proper party defendant in this action; and that, therefore, plaintiff's claim should be dismissed.

{¶ 3} Plaintiff did not respond. The site of plaintiff's incident was in the City of Toledo.

[Cite as *Powell-Miller v. Ohio Dept. of Transp.*, 2007-Ohio-3749.]

{¶ 4} R.C. 5501.31 in pertinent part states:

{¶ 5} “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, 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 . . .”

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

{¶ 7} Having considered all the evidence in the claim file and, for the reasons set forth above, plaintiff’s claim is DISMISSED. The court 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.

MILES C. DURFEY
Clerk

Entry cc:

Joyce D. Powell-Miller
1610 Saddlebrook Court
Toledo, Ohio 43615

James Beasley, Director
Department of Transportation
1980 West Broad Street
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RDK/laa
5/16
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