

[Cite as *Rhodes v. Ohio Dept. of Transp.*, 2005-Ohio-3645.]

IN THE COURT OF CLAIMS OF OHIO

SUSAN RHODES :  
Plaintiff :  
v. : CASE NO. 2005-03652-AD  
DEPARTMENT OF TRANSPORTATION, : ENTRY OF DISMISSAL  
DISTRICT 4 :  
Defendant :

: : : : : : : : : : : : : : : :

{¶ 1} On February 9, 2005, at approximately 10:00 p.m., plaintiff was driving southbound on State Route 8 just south of Interstate 271 when she struck a pothole in the traveled portion of the roadway. As a result of striking the pothole, plaintiff damaged the rim of her vehicle. Plaintiff seeks reimbursement for replacement rim, labor, and balancing for a total of \$312.00. Plaintiff submitted the filing fee with the complaint.

{¶ 2} On May 13, 2005, 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 section of SR 8, just south of I-271, and it falls under the maintenance jurisdiction of the City of Macedonia (See Attached Map). 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 plaintiff's incident was within the city limits of Macedonia.

{¶ 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 . . ."

{¶ 7} The site of the damage-causing incident was not the maintenance responsibility of the 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. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Susan Rhodes  
3829 Heron Court  
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Plaintiff, Pro se

Thomas P. Pannett, P.E.  
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1980 West Broad Street

For Defendant

Case No. 2005-03652-AD

- 3 -

ENTRY

Columbus, Ohio 43223

DRB/laa

6/20

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