

# 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

VICTOR FISHER

Plaintiff

v.

GENEVA STATE PARK MARINA

Defendant

Case No. 2008-09538-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

### FINDINGS OF FACT

{¶ 1} 1) On June 12, 2008, a boat owned by plaintiff, Victor Fisher, was damaged by an unmarked dredge line while navigating in the channel of the marina at defendant, Geneva Lake State Park, a facility operated by the Ohio Department of Natural Resources. Consequently, plaintiff filed this complaint seeking to recover \$853.41, the cost of boat repair. The filing fee was paid.

{¶ 2} 2) Defendant filed an investigation report acknowledging plaintiff stated a claim under Chapter 2743 of the Ohio Revised Code. Defendant agreed plaintiff suffered property damage in the amount of \$853.41 and filing fee costs in the amount of \$25.00. Defendant advised that any collateral source payment plaintiff received for boat repair costs must be deducted from any damage award.<sup>1</sup> No evidence was submitted to establish plaintiff actually received any collateral source payment for boat repair costs.

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<sup>1</sup> R.C. 2743.02(D) provides in pertinent part:

“(D) Recoveries against the state shall be reduced by the aggregate of insurance proceeds,

{¶ 3} 3) Plaintiff filed a response.

#### CONCLUSIONS OF LAW

{¶ 4} 1) Negligence on the part of defendant has been shown. *Slane v. Ohio Dept. of Natural Resources*, Ct. of Cl. No. 2006-04288-AD, 2006-Ohio-7297.

{¶ 5} 2) Plaintiff has suffered damages in the amount of \$853.41, plus the \$25.00 filing fee which 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

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disability award, or other collateral recovery received by the claimant.”

in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$878.41, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Victor Fisher  
2729 Burns Road  
Madison, Ohio 44057

Charles G. Rowan  
Department of Natural Resources  
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RDK/laa  
12/18  
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