

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

THERESA SASALA

Plaintiff

v.

OHIO DEPARTMENT OF NATURAL RESOURCES

Defendant

Case No. 2011-06731-AD

Acting Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} On April 29, 2011, plaintiff, Theresa Sasala, filed a complaint against defendant, Department of Natural Resources, asserting that her vehicle was damaged as the result of negligence during repairs to an electrical line at defendant's Pymatuning State Park.

{¶2} Plaintiff alleged that her insurer, Allstate Insurance Company, "has made payments for the repairs to my vehicle and is subrogated to said amount." Plaintiff seeks damages in the amount of \$500.00 for reimbursement of her insurance deductible. Plaintiff indicated that she received insurance payments for repair costs amounting to \$809.04. As such, plaintiff's damage claim for repair expenses is limited to her insurance coverage deductible.¹ The filing fee was paid.

{¶3} On July 1, 2011, defendant filed an investigation report stating that defendant "does not dispute plaintiff's claim against the State under Chapter 2743. of the Ohio Revised Code." Defendant acknowledged plaintiff is entitled to reimbursement

¹ R.C. 2743.02(D) states that judgments against the state "shall be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery" received by plaintiff.

of her insurance deductible and the \$25.00 filing fee. Defendant disputed plaintiff's subrogation claim.

CONCLUSIONS OF LAW

{¶4} Sufficient proof of liability on the part of defendant has been shown. *Crumm v. Ohio Dept. of Transp.*, Ct. of Cl. No. 2007-02190-AD, 2009-Ohio-2748.

{¶5} The Ohio Supreme Court in *Community Ins. Co. v. Ohio Dept. of Transportation*, 92 Ohio St. 3d 376, 2001-Ohio-208, prohibits an insurer from seeking subrogation in the Court of Claims for payments to policy holders who suffer damages due to negligence of the state.

{¶6} Plaintiff has suffered damages in the amount of \$500.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *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 in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$525.00, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Acting Clerk

Entry cc:

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7/25
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