

**Legislative Claims Commission**

**ANNUAL REPORT**

**2022**

Janet N. Kawash  
Clerk of the Commission

2022

Annual Report  
of the  
West Virginia Legislative  
Claims Commission

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J. Rudy Martin, Presiding Commissioner

Andrew B. Cooke, Commissioner

John H. Shott, Commissioner

Janet N. Kawash, Clerk



## West Virginia Legislative Claims Commission

Presiding Commissioner  
J. Rudy Martin  
Commissioners  
Andrew B. Cooke  
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Janet N. Kawash  
Clerk

February 2, 2022

Honorable Members of the  
West Virginia State Legislature

In accordance with West Virginia Code §14-2-25, the Annual Report of the West Virginia Crime Victims Compensation Fund is hereby submitted. This Report covers the activities of the Legislative Claims Commission for the calendar year 2021.

Very truly yours,

  
Janet N. Kawash  
Clerk

## SUMMARY OF FUNDS

### REGULAR CLAIMS BILL

GENERAL REVENUE FUNDS	\$ 14,318.48
SPECIAL REVENUE FUNDS	\$ 542,715.79
STATE ROAD FUNDS	\$ 500,231.63
<b>TOTAL FOR REGULAR CLAIMS BILL</b>	<b>\$1,057,265.90</b>

### OVEREXPENDITURE CLAIMS BILL

GENERAL REVENUE FUNDS	\$3,555.00
<b>TOTAL FOR OVEREXPENDITURE CLAIMS BILL</b>	<b>\$3,555.00</b>

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## Claims presented to the 2022 Legislature

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
20-0623	Ricoh USA, Inc.	Department of Administration	\$31,303.87	\$31,303.87	03/10/2021
20-0663	SHI International Corporation	Department of Administration	\$15,013.12	\$15,013.12	03/29/2021
20-0583	State Electric Supply Company	Department of Administration	\$1.00	\$4,317.53	03/10/2021
20-0586	West Virginia Network	Department of Administration	\$18,670.24	\$18,670.24	03/10/2021
21-0295	DMT Solutions Global Corporation, dba Bluecrest	Department of Administration/IS&C	\$8,000.00	\$8,000.00	07/13/2021
20-0721	Chemstream, Inc.	Department of Environmental Protection	\$11,966.40	\$11,966.40	03/10/2021
21-0637	KEMRON Environmental Services	Department of Environmental Protection	\$3,103.00	\$3,103.00	09/28/2021
21-0638	KEMRON Environmental Services, Inc.	Department of Environmental Protection	\$325.00	\$325.00	09/28/2021
20-0499	Mon Valley Integration LLC	Department of Environmental Protection	\$47,293.01	\$47,293.01	04/30/2021
20-0726	Harrison, Daniel L. / Harrison, Cindy L.	Department of Health and Human Resources	\$751.29	\$751.29	08/13/2021
20-0760	The Davis Group Inc., DBA Teays Maids	Department of Veterans Assistance	\$2,470.00	\$2,470.00	03/10/2021
20-0747	Copley, Willie Jay	Division of Corrections and Rehabilitation	\$1,250.00	\$1,250.00	12/17/2021
19-1484	Cosner, Michael Dwayne	Division of Corrections and Rehabilitation	\$380.00	\$380.00	03/29/2021
20-0464	Craft, Tracy	Division of Corrections and Rehabilitation	\$844.87	\$434.97	07/01/2021
21-0153	Delgado, Miguel	Division of Corrections and Rehabilitation	\$50.00	\$50.00	07/01/2021
20-0758	Delgado, Miguel	Division of Corrections and Rehabilitation	\$44.00	\$23.75	07/01/2021
19-1296	Duncan, Henry T.	Division of Corrections and Rehabilitation	\$60.09	\$57.65	03/10/2021
19-1295	Duncan, Henry T.	Division of Corrections and Rehabilitation	\$229.38	\$226.84	03/10/2021
19-1294	Duncan, Henry T.	Division of Corrections and Rehabilitation	\$46.26	\$44.22	03/10/2021
20-0352	Duncan, Henry Timberlake	Division of Corrections and Rehabilitation	\$556.46	\$553.13	03/10/2021
20-0284	Ferguson, Thomas	Division of Corrections and Rehabilitation	\$123.64	\$26.00	07/01/2021
20-0480	Hamill, Kevin	Division of Corrections and Rehabilitation	\$37.99	\$18.00	03/29/2021
21-0106	Neel, Michael	Division of Corrections and Rehabilitation	\$222.60	\$222.60	06/22/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
19-1402	Peck, Kenneth R.	Division of Corrections and Rehabilitation	\$1,200.00	\$1,200.00	04/30/2021
21-0057	Saunders, Quantel O.	Division of Corrections and Rehabilitation	\$10,000.00	\$1,589.21	07/13/2021
20-0414	White, Thomas M.	Division of Corrections and Rehabilitation	\$107.78	\$80.84	05/25/2021
21-0423	Abed, Malihah	Division of Highways	\$1.00	\$237.95	11/08/2021
20-0735	Abel, Sherry / Abel, Donald	Division of Highways	\$749.00	\$500.00	07/29/2021
21-0175	Abraham, Edward L.	Division of Highways	\$538.86	\$500.00	09/27/2021
20-0491	Adams, Gregory L.	Division of Highways	\$1.00	\$4,500.00	09/28/2021
21-0359	Adams, Samantha / Perry, Michael	Division of Highways	\$2,669.00	\$500.00	11/22/2021
21-0079	Adkins , James E	Division of Highways	\$200.00	\$182.36	11/22/2021
20-0558	Adkins, Jared	Division of Highways	\$7,300.69	\$500.00	07/01/2021
21-0434	Ahmed, Farhan	Division of Highways	\$463.45	\$463.45	11/08/2021
21-0011	Allard, Stephanie / Allard, David S.	Division of Highways	\$1,000.00	\$1,000.00	11/04/2021
21-0204	Allred, Brenda C.	Division of Highways	\$278.12	\$278.12	08/13/2021
19-0490	Altizer, Michelle	Division of Highways	\$1,138.00	\$250.00	05/24/2021
21-0038	Anderson, Kathy J.	Division of Highways	\$664.63	\$500.00	07/01/2021
21-0345	Andrew, Timothy / DeMary-Andrew, Mekeel J.	Division of Highways	\$265.36	\$265.36	09/27/2021
21-0573	Arnett, Amy	Division of Highways	\$1.00	\$203.13	11/22/2021
21-0440	Arnold, Marc D.	Division of Highways	\$340.50	\$340.50	11/22/2021
21-0154	Arthur, John	Division of Highways	\$669.36	\$669.36	08/13/2021
21-0089	Ashley, Kathy / Ashley, Clinton E	Division of Highways	\$349.95	\$370.95	09/27/2021
21-0018	Aucremanne, Greg	Division of Highways	\$1.00	\$500.00	11/08/2021
21-0568	Bailey, Barry W.	Division of Highways	\$2,390.00	\$2,000.00	12/06/2021
21-0195	Bailey, Gary	Division of Highways	\$1,900.00	\$500.00	12/17/2021
21-0001	Baker, Melissa	Division of Highways	\$231.65	\$231.65	04/30/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0091	Baldwin, Kimberly A.	Division of Highways	\$800.83	\$500.00	11/04/2021
21-0094	Barger, Wendy / Barger, Jared	Division of Highways	\$777.74	\$500.00	11/04/2021
21-0570	Barnett, Melissa J. / Barnett, Christopher L.	Division of Highways	\$249.99	\$249.99	12/06/2021
21-0249	Bartlett, Rodney D.	Division of Highways	\$779.98	\$500.00	09/27/2021
21-0259	Bates, Jackie	Division of Highways	\$489.72	\$489.72	09/28/2021
21-0467	Bennett, Jeffrey Earl	Division of Highways	\$472.31	\$472.31	11/09/2021
20-0673	Bentley, Darla	Division of Highways	\$155.99	\$155.99	11/22/2021
21-0276	Bertram, Harry V.	Division of Highways	\$100.34	\$100.34	11/08/2021
19-0481	Bigley, Douglas / Bigley, Kelly R.	Division of Highways	\$2,500.00	\$500.00	05/24/2021
20-0523	Bishop, Anthony Blaine / Howell, Cherie	Division of Highways	\$257.11	\$257.11	03/10/2021
21-0689	Blake, Sharon J.	Division of Highways	\$249.05	\$249.05	11/09/2021
21-0448	Bland, Thelma J. / Bland, Charles D.	Division of Highways	\$500.00	\$500.00	09/27/2021
21-0214	Blankenship, David B.	Division of Highways	\$430.00	\$430.00	11/22/2021
21-0068	Blount, Amy / Blount, Christopher N	Division of Highways	\$644.91	\$644.91	09/27/2021
21-0138	Bobela, Charles	Division of Highways	\$250.00	\$250.00	09/27/2021
21-0340	Bolen, Benjamin T.	Division of Highways	\$552.12	\$328.63	12/17/2021
21-0437	Bonner, John	Division of Highways	\$1.00	\$1,422.46	09/27/2021
20-0054	Bowen, Curtis Bradley	Division of Highways	\$1.00	\$2,835.00	12/17/2021
21-0407	Brandli, Clayton C.	Division of Highways	\$1,446.20	\$756.31	09/27/2021
21-0298	Brinckman, Kaylie / Brinckman, Jamea	Division of Highways	\$819.09	\$819.09	11/22/2021
21-0253	Brooks, Samuel / Brooks, Rita	Division of Highways	\$362.72	\$362.72	08/13/2021
21-0251	Brooks, Samuel / Brooks, Rita	Division of Highways	\$353.10	\$353.10	08/13/2021
20-0594	Brown, James E	Division of Highways	\$1.00	\$500.00	12/30/2021
20-0616	Brown, Lola A.	Division of Highways	\$1,512.19	\$1,000.00	05/24/2021



Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
20-0683	Brown, Wesley E.	Division of Highways	\$963.00	\$500.00	09/27/2021
21-0055	Browning, Jo Ellen / Browning, Robert	Division of Highways	\$500.00	\$500.00	11/04/2021
19-1145	Buckley, Gene / Buckley, Jeff / Buckley, Allen	Division of Highways	\$1.00	\$45,252.00	12/17/2021
20-0359	Bungard, Emerson	Division of Highways	\$175.01	\$175.01	07/01/2021
20-0625	Buracker, Jessica	Division of Highways	\$419.40	\$419.40	11/08/2021
21-0220	Burcham, Stephanie D. / Burcham, Dovel E.	Division of Highways	\$297.46	\$297.46	08/13/2021
21-0460	Burdette, Mark	Division of Highways	\$500.00	\$500.00	11/08/2021
21-0489	Burkhammer, Ann E.	Division of Highways	\$187.25	\$187.25	09/27/2021
21-0707	Cabell County EMS	Division of Highways	\$2,709.93	\$2,500.00	12/06/2021
21-0009	Calloway, Tracy	Division of Highways	\$529.63	\$500.00	11/04/2021
21-0442	Carroll, Curtis	Division of Highways	\$520.00	\$500.00	11/22/2021
21-0493	Carter, Craig D.	Division of Highways	\$1.00	\$500.00	11/22/2021
21-0341	Cavallo, Evan	Division of Highways	\$817.59	\$500.00	09/27/2021
21-0657	Chadwell, Jerry / Chadwell, Kathy	Division of Highways	\$215.34	\$215.34	12/06/2021
21-0465	Chandler, Brandon / Chandler, Tiffany	Division of Highways	\$1,797.00	\$972.00	12/17/2021
20-0640	Chapman, Herbert A. / Reed, C.J	Division of Highways	\$299.98	\$299.98	08/03/2021
21-0333	Chewning, Heather Nicole	Division of Highways	\$500.00	\$500.00	11/04/2021
21-0060	Christian, Dovie	Division of Highways	\$156.64	\$156.64	11/04/2021
21-0670	Clark, Connie / Withrow, Nicholas	Division of Highways	\$238.29	\$188.29	12/06/2021
21-0563	Clay, Larry	Division of Highways	\$1.00	\$1,000.00	12/06/2021
21-0017	Clevinger, Melissa G.	Division of Highways	\$477.66	\$477.66	07/01/2021
21-0083	Clipp, Marina J. / Clipp, David W.	Division of Highways	\$174.74	\$174.74	07/13/2021
21-0720	Cobb, William P.	Division of Highways	\$225.78	\$225.78	12/06/2021
21-0459	Cochran, Debra / Cochran, Michael	Division of Highways	\$2,237.59	\$500.00	11/04/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
20-0576	Coffman, Jacqueline Paige	Division of Highways	\$254.40	\$254.40	03/10/2021
21-0355	Collision Appraisal Reinspection Service	Division of Highways	\$497.54	\$497.54	11/22/2021
20-0727	Comer, Stephen / Comer, Leah	Division of Highways	\$1,047.83	\$603.76	11/04/2021
21-0488	Conley, Elline	Division of Highways	\$322.94	\$322.94	11/22/2021
21-0632	Cook, Melissa D.	Division of Highways	\$924.43	\$924.43	12/06/2021
21-0472	Cox, Jordan A.	Division of Highways	\$556.63	\$500.00	11/04/2021
21-0644	Crist, Shawn David	Division of Highways	\$1.00	\$2,831.00	12/17/2021
21-0133	Crosby, Robert L.	Division of Highways	\$1.00	\$500.00	11/22/2021
20-0731	Crow, Michele	Division of Highways	\$292.12	\$292.12	04/30/2021
21-0428	Cruzzavala, Alexander	Division of Highways	\$244.95	\$244.95	11/08/2021
21-0008	Cutlip, Ronnie K.	Division of Highways	\$1,843.91	\$500.00	11/22/2021
21-0737	Dabney, Morri	Division of Highways	\$490.19	\$490.19	12/06/2021
19-1259	Daniels, Christopher F.	Division of Highways	\$16,377.33	\$14,000.00	07/13/2021
21-0047	D'Aurora, Patricia M.	Division of Highways	\$174.82	\$174.82	07/29/2021
20-0613	Davis, Diana	Division of Highways	\$317.04	\$317.04	03/10/2021
19-0287	Deal, Rex Redford	Division of Highways	\$106,525.36	\$10,000.00	12/20/2021
21-0490	Deitz, Robin / Deitz, Jeremy	Division of Highways	\$282.17	\$250.00	09/28/2021
21-0207	Domico, Lindsey / Domico, Anthony	Division of Highways	\$149.80	\$149.80	09/27/2021
21-0346	Donahue, Rex	Division of Highways	\$340.13	\$260.12	11/22/2021
21-0021	Donley, Charles	Division of Highways	\$215.88	\$215.88	07/29/2021
21-0093	Downing, Pearl A.	Division of Highways	\$3,350.00	\$3,350.00	11/22/2021
21-0051	Duff, Joshua T. / Jones, Karey	Division of Highways	\$351.20	\$100.00	07/01/2021
21-0280	Dunbar, Cristie R. / Dunbar, Jerry Wayne	Division of Highways	\$475.88	\$475.88	11/22/2021
20-0478	Dunlap, Deborah C.	Division of Highways	\$716.00	\$616.00	03/10/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
20-0666	Dunlap, Ernest L.	Division of Highways	\$500.00	\$500.00	04/30/2021
20-0619	Durkee, Nancy / Durkee, John	Division of Highways	\$1.00	\$500.00	12/17/2021
21-0193	Dye, Stephen	Division of Highways	\$316.59	\$300.00	08/13/2021
21-0190	Dye, Stephen	Division of Highways	\$313.90	\$300.00	08/13/2021
21-0590	East, Michael	Division of Highways	\$74.73	\$234.72	11/04/2021
20-0752	Echard, Terry E.	Division of Highways	\$1.00	\$500.00	11/04/2021
20-0734	Efaw, Julie / Efaw, Michael A.	Division of Highways	\$1,165.67	\$1,165.67	08/13/2021
21-0461	Ejimofofor, Amanda	Division of Highways	\$749.37	\$749.37	11/08/2021
21-0128	Elbon, Kenneth	Division of Highways	\$568.64	\$250.00	11/22/2021
20-0408	Epling, Jeremy / Epling, Joey L.	Division of Highways	\$1,248.40	\$500.00	03/10/2021
21-0761	Evans, Timothy L.	Division of Highways	\$597.35	\$448.14	12/06/2021
20-0567	Fabin, Shirley	Division of Highways	\$1.00	\$97.94	12/06/2021
21-0185	Ferrell, Taylor	Division of Highways	\$96.25	\$101.25	08/13/2021
19-1520	Fields, Barry Dustin	Division of Highways	\$1.00	\$8,500.00	12/20/2021
20-0573	Fleming, Adriana / Jeffrey, Edna / Jeffrey, Bill	Division of Highways	\$1.00	\$139.09	05/24/2021
20-0733	Fleming-Frum, Kristi L.	Division of Highways	\$323.95	\$323.95	04/30/2021
21-0230	Flora, Priscilla	Division of Highways	\$282.52	\$282.52	11/22/2021
21-0416	Forinash, Charles B.	Division of Highways	\$508.79	\$500.00	09/27/2021
20-0194	Gage, Guy	Division of Highways	\$132.00	\$132.00	09/27/2021
20-0320	Gates, Casey L.	Division of Highways	\$30,000.00	\$13,000.00	07/01/2021
21-0336	George, Tom J.	Division of Highways	\$250.00	\$250.00	11/08/2021
21-0610	Gerlach, Paige	Division of Highways	\$1,135.73	\$500.00	12/17/2021
18-0332	Gibbons, Kristi A.	Division of Highways	\$65,000.00	\$37,484.00	09/28/2021
20-0471	Gier, Sierra	Division of Highways	\$1.00	\$293.58	07/01/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
20-0509	Gimblin, Margaret A. / Gimblin, Stuart M.	Division of Highways	\$523.19	\$500.00	03/10/2021
21-0435	Goetz, Karen J.	Division of Highways	\$418.50	\$285.49	09/28/2021
20-0667	Goldcamp, Edward M. / Goldcamp, Jennifer C.	Division of Highways	\$442.66	\$442.66	11/08/2021
20-0602	Gore, Carmen	Division of Highways	\$1.00	\$500.00	03/17/2021
21-0200	Gothard, Amy / Gothard, Chadwick	Division of Highways	\$755.14	\$500.00	11/22/2021
21-0439	Graceson, Catherine J.	Division of Highways	\$331.37	\$331.37	11/22/2021
20-0720	Gray, James	Division of Highways	\$262.15	\$262.15	07/29/2021
21-0495	Green, Michael	Division of Highways	\$318.86	\$318.86	11/22/2021
20-0544	Guthrie, Harold R.	Division of Highways	\$417.23	\$417.23	11/08/2021
21-0323	Hagerman, Robyn / Hagerman, Robert	Division of Highways	\$92.60	\$92.60	11/22/2021
21-0403	Hall, Jason	Division of Highways	\$1.00	\$371.24	11/08/2021
19-1365	Hall, Paul Michael	Division of Highways	\$911.51	\$911.51	11/22/2021
20-0556	Hardman, Donald L.	Division of Highways	\$1,864.95	\$1,864.95	09/28/2021
21-0659	Harper, Larry W.	Division of Highways	\$1.00	\$820.49	12/17/2021
21-0685	Harvey, Mendy	Division of Highways	\$421.47	\$421.47	12/17/2021
20-0699	Haight, James R.	Division of Highways	\$84.09	\$84.09	07/01/2021
21-0221	Haynie, Rick	Division of Highways	\$1.00	\$447.34	11/22/2021
21-0619	Hendricks, Cheryl	Division of Highways	\$500.00	\$500.00	12/17/2021
20-0603	Henry, James C.	Division of Highways	\$83.21	\$83.21	04/30/2021
21-0660	Hensley, Brad / Hensley, Larry D.	Division of Highways	\$639.21	\$639.21	12/06/2021
21-0405	Hensley, David E. / Walls, Xzavier Colt	Division of Highways	\$219.49	\$219.49	12/06/2021
21-0404	Hensley, David E. / Walls, Xzavier Colt	Division of Highways	\$197.58	\$197.58	12/06/2021
20-0665	Hess, Lindsey	Division of Highways	\$965.28	\$500.00	11/08/2021
21-0376	Hetrick, Renea	Division of Highways	\$258.14	\$258.14	11/08/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0543	Hill, Boyd D. / Hill, J. Kay	Division of Highways	\$117.96	\$117.96	11/22/2021
21-0269	Hilliard, April E.	Division of Highways	\$1,761.11	\$500.00	07/13/2021
20-0540	Hudson, Derek	Division of Highways	\$500.00	\$500.00	11/09/2021
20-0589	Hughart-Calloway, Jessica	Division of Highways	\$361.66	\$361.66	03/10/2021
21-0479	Humphries, Kathy L.	Division of Highways	\$295.47	\$295.47	11/22/2021
20-0582	Isenhardt, Grant H.	Division of Highways	\$365.00	\$156.70	09/27/2021
21-0767	Jarrell, Sherri L. / Jarrell, Lawrence E.	Division of Highways	\$1.00	\$500.00	12/06/2021
21-0634	Jarvis, Alex	Division of Highways	\$273.91	\$273.91	11/08/2021
20-0645	Jecklin, Kristy / Jecklin, David M.	Division of Highways	\$500.00	\$500.00	11/08/2021
21-0559	Jenkins, Jonathan / Jenkins, Soran	Division of Highways	\$1,273.44	\$500.00	09/27/2021
21-0232	Jenkins, Thomas / Jenkins, Kimberly D.	Division of Highways	\$401.80	\$401.80	09/28/2021
21-0282	Johnston-Bishop, Joyell	Division of Highways	\$783.57	\$783.57	08/13/2021
21-0052	Jones, James A.	Division of Highways	\$1,435.14	\$345.28	12/17/2021
20-0605	Jones, Jerry L.	Division of Highways	\$145.45	\$145.45	11/08/2021
21-0202	Jones, Justin	Division of Highways	\$318.86	\$318.86	08/13/2021
21-0432	Jones, Kerry C.	Division of Highways	\$500.00	\$500.00	11/22/2021
21-0362	Jones, Vickie S.	Division of Highways	\$451.05	\$451.05	11/08/2021
20-0622	Jordan, Todd C.	Division of Highways	\$275.24	\$275.24	03/10/2021
21-0567	Justice, Carolyn R.	Division of Highways	\$754.54	\$250.00	11/22/2021
21-0034	Kanawha Valley Enrichment Center, LLC / Terry, Sandra / Terry, Shellie	Division of Highways	\$1.00	\$500.00	07/13/2021
21-0478	Keller, Alanna J. / Keller, Perry J.	Division of Highways	\$697.44	\$250.00	07/13/2021
21-0763	Kelly, Brad / Kelly, Trudy	Division of Highways	\$63.60	\$63.60	12/17/2021
21-0525	Kendall, Jeanne	Division of Highways	\$267.50	\$267.50	11/22/2021
21-0708	Kidd, Arnold B. / Kidd, Helen E.	Division of Highways	\$465.82	\$465.82	11/04/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
18-1563	Kidd, Melissa J. / Kidd Romaca, Jackie L.	Division of Highways	\$41,000.00	\$1,800.00	03/29/2021
21-0373	Kinney, Trisha Ann	Division of Highways	\$1.00	\$97.52	05/24/2021
21-0102	Kinney, Trisha Ann	Division of Highways	\$205.64	\$205.64	05/24/2021
20-0503	Kohelis, Mary / Kohelis, John	Division of Highways	\$1,158.64	\$500.00	07/29/2021
21-0408	Kupec, Linda	Division of Highways	\$1.00	\$1,000.00	09/27/2021
20-0560	Lacovey, Matthew / Straight, Stacy	Division of Highways	\$189.50	\$189.50	07/01/2021
21-0592	Lambert, Rachel	Division of Highways	\$442.60	\$442.60	11/04/2021
21-0353	Layne, James R.	Division of Highways	\$328.31	\$328.31	09/28/2021
21-0547	Lemley, Jennifer Jo	Division of Highways	\$431.41	\$431.41	11/08/2021
21-0703	Linkinogor, Leola / Mullins, Kathryn	Division of Highways	\$725.80	\$725.80	12/06/2021
20-0723	Linville, Kevin S.	Division of Highways	\$1.00	\$5,000.00	05/24/2021
21-0482	Lloyd, Andra	Division of Highways	\$292.00	\$292.00	11/22/2021
21-0415	Lowe, Leah B.	Division of Highways	\$938.85	\$933.85	12/17/2021
20-0579	Lynch, Cheryl	Division of Highways	\$512.85	\$500.00	11/22/2021
21-0134	MacLeod, John	Division of Highways	\$683.87	\$500.00	07/29/2021
21-0641	Manko, Dustin / Manko, Kelly	Division of Highways	\$1.00	\$250.00	11/08/2021
21-0157	Marshall, Linda K. / Marshall, Danny J.	Division of Highways	\$300.00	\$300.00	07/01/2021
21-0725	Martin, Kimberly Joan	Division of Highways	\$5,403.81	\$400.00	12/06/2021
20-0148	Martin, Penny Lee / Martin, Paul David	Division of Highways	\$1.00	\$5,726.63	12/17/2021
21-0203	Mauer, Patricia / Mauer, Ronald M.	Division of Highways	\$340.17	\$340.17	11/08/2021
21-0163	May, James	Division of Highways	\$1,000.00	\$500.00	09/27/2021
21-0457	Mays, Pamela K.	Division of Highways	\$59.50	\$59.50	11/22/2021
20-0633	Maze, Angela	Division of Highways	\$354.41	\$354.41	03/10/2021
18-0693	McAllister, Sandra / McAllister, Steven P.	Division of Highways	\$1.00	\$203,581.60	12/17/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0427	McCormick, Alice / McCormick, Thomas	Division of Highways	\$810.82	\$500.00	11/22/2021
21-0470	McCoy, Michael / McCoy, Michele / McCoy, Caycee	Division of Highways	\$166.00	\$166.00	11/22/2021
21-0409	McDonald, Barbara	Division of Highways	\$1.00	\$466.35	11/08/2021
21-0178	McElfresh, Shirley	Division of Highways	\$382.30	\$382.30	07/29/2021
21-0215	McNair, Mary	Division of Highways	\$213.86	\$213.86	09/27/2021
21-0608	Meadows, Barbara B. / Meadows, Michael D.	Division of Highways	\$518.57	\$500.00	12/06/2021
21-0582	Meadows, Jessica K.	Division of Highways	\$1.00	\$442.62	12/17/2021
20-0354	Medlen, Deanna L.	Division of Highways	\$4,067.32	\$2,300.00	11/22/2021
21-0391	Miller, Macilia J.	Division of Highways	\$481.49	\$481.49	11/22/2021
21-0184	Morgan, David / Tillery, Victoria	Division of Highways	\$1,381.26	\$1,000.00	11/22/2021
21-0229	Moss, Jennifer L.	Division of Highways	\$437.63	\$437.63	08/13/2021
21-0267	Mullins, Marc	Division of Highways	\$167.52	\$167.52	12/06/2021
21-0097	Mullins-Ayscue, Deborah	Division of Highways	\$1.00	\$100.00	07/01/2021
21-0029	Musick, Selena	Division of Highways	\$1,000.00	\$1,000.00	12/17/2021
21-0255	Myers, Jennifer	Division of Highways	\$87.93	\$87.93	11/08/2021
21-0150	Nelson, Sally L.	Division of Highways	\$743.58	\$743.58	11/22/2021
21-0216	Odell, Erin / Odell, Bryan	Division of Highways	\$825.53	\$500.00	11/22/2021
21-0123	O'Neil, Christopher / O'Neil, Sandra	Division of Highways	\$208.60	\$208.60	07/29/2021
20-0484	Osborne, Melody / Osborne, Randall	Division of Highways	\$596.98	\$500.00	03/10/2021
20-0722	Otte, Jessica L.	Division of Highways	\$170.55	\$170.55	07/29/2021
21-0344	Parsons, Drew	Division of Highways	\$137.78	\$137.78	11/22/2021
20-0719	Parsons, Drew	Division of Highways	\$1.00	\$250.00	04/30/2021
21-0208	Paton, Allison / Paton, Andrew S.	Division of Highways	\$357.16	\$357.16	09/27/2021
20-0504	Pauley, Susan A.	Division of Highways	\$216.14	\$286.14	08/13/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0192	Pelurie, Matthew S.	Division of Highways	\$379.01	\$379.01	08/13/2021
20-0718	Petty, Stephen / Petty, Dianna G.	Division of Highways	\$272.62	\$272.62	05/24/2021
20-0627	Phillips, Dominique / Phillips, Tim	Division of Highways	\$3,194.10	\$800.00	03/10/2021
21-0558	Pitsenbarger, Kimberly	Division of Highways	\$497.85	\$100.00	11/08/2021
21-0536	Price, Amanda R.	Division of Highways	\$500.00	\$500.00	11/22/2021
21-0242	Printy, Wendy S.	Division of Highways	\$1.00	\$322.88	11/08/2021
21-0263	Pritt, Cecil N.	Division of Highways	\$1.00	\$500.00	09/27/2021
20-0384	Rakes, Angela / Rakes, Robert M.	Division of Highways	\$9,051.11	\$1,000.00	09/28/2021
20-0599	Ratliff, Amy / Ratliff, Christopher L.	Division of Highways	\$126.99	\$126.99	07/01/2021
20-0429	Redden, Alan / Redden, Tammy	Division of Highways	\$1.00	\$500.00	12/17/2021
21-0031	Reed, Shannon	Division of Highways	\$1,444.62	\$500.00	11/08/2021
20-0515	Reynolds, Patricia M.	Division of Highways	\$499.52	\$250.00	07/29/2021
20-0628	Rhodes, Brenda Lou	Division of Highways	\$238.60	\$238.60	03/10/2021
21-0243	Rhodes, Ryan	Division of Highways	\$252.23	\$200.00	07/01/2021
21-0615	Richardson, Dana	Division of Highways	\$400.34	\$400.34	12/06/2021
20-0514	Richmond, Eden / Richmond, Nathan	Division of Highways	\$575.99	\$500.00	03/10/2021
21-0369	Richmond, John W.	Division of Highways	\$1.00	\$987.26	11/04/2021
20-0669	Richmond, Krista	Division of Highways	\$286.00	\$286.08	11/04/2021
21-0552	Riggleman, Michelle R.	Division of Highways	\$1.00	\$399.64	09/27/2021
20-0737	Riley, Robert	Division of Highways	\$308.16	\$308.16	04/30/2021
21-0227	Robey, Jacquelyn	Division of Highways	\$632.45	\$500.00	09/27/2021
20-0608	Robinette, Brittany	Division of Highways	\$500.00	\$500.00	11/08/2021
20-0670	Robinson, Arnie	Division of Highways	\$133.75	\$133.75	04/30/2021
21-0509	Rogers, Cody / Weaver, Kim	Division of Highways	\$1,928.09	\$1,000.00	09/27/2021



Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
20-0600	Ross, Donna / Ross, Edward	Division of Highways	\$215.60	\$215.60	05/24/2021
21-0284	Ross, Edward	Division of Highways	\$505.44	\$500.00	09/27/2021
20-0679	Ross, Terry	Division of Highways	\$2,870.63	\$500.00	09/28/2021
21-0577	Rowe, Brett / Rowe, Shelley	Division of Highways	\$379.54	\$379.54	12/06/2021
21-0023	Ruppert, Steven	Division of Highways	\$618.55	\$500.00	09/27/2021
21-0352	Rux, Hannah L. / Rux, Matthew J.	Division of Highways	\$1,005.04	\$1,005.04	07/29/2021
21-0485	Sansom, Lloyd / Sansom, Debbie M.	Division of Highways	\$13,007.70	\$500.00	11/22/2021
21-0351	Satterfield, Ronald L. / Satterfield, Tracie	Division of Highways	\$162.63	\$162.63	09/27/2021
21-0350	Satterfield, Ronald L. / Satterfield, Tracie	Division of Highways	\$189.53	\$189.53	09/27/2021
19-1514	Sayer, Jerry G.	Division of Highways	\$100,000.00	\$9,210.00	11/22/2021
21-0072	Scarberry, Candace	Division of Highways	\$205.05	\$205.05	11/22/2021
21-0069	Scarnato, Elizabeth K.	Division of Highways	\$376.88	\$250.00	07/01/2021
21-0334	Schwartz, Carrie A.	Division of Highways	\$558.98	\$500.00	07/29/2021
19-0630	Selective Service LLC	Division of Highways	\$1.00	\$5,000.00	11/08/2021
20-0753	Shears, Mary D.	Division of Highways	\$1.00	\$466.44	09/28/2021
20-0115	Sheets, Cynthia A.	Division of Highways	\$187.25	\$187.25	09/27/2021
21-0555	Shull, Kevin L. / Shull, Melissa Dawn	Division of Highways	\$426.81	\$426.81	12/06/2021
21-0218	Shutler, Christina / Shutler, Troy	Division of Highways	\$787.41	\$500.00	11/08/2021
21-0322	Silberstein, Robert	Division of Highways	\$1.00	\$1,000.00	07/13/2021
21-0117	Silvester, Kelsey	Division of Highways	\$1.00	\$450.00	09/27/2021
21-0575	Simmons, Myra L.	Division of Highways	\$225.51	\$225.51	12/06/2021
20-0533	Sims, Cynthia D.	Division of Highways	\$1,427.27	\$500.00	11/04/2021
21-0330	Slack, Theresa	Division of Highways	\$600.00	\$174.45	11/22/2021
21-0566	Slate, Cynthia E.	Division of Highways	\$219.35	\$219.35	09/27/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0466	Smith, Tammra	Division of Highways	\$193.65	\$193.65	11/22/2021
21-0162	Snyder, John M.	Division of Highways	\$159.16	\$159.16	11/04/2021
21-0462	Spaulding, Cameron J.	Division of Highways	\$324.34	\$324.34	11/22/2021
21-0528	Spence, Lorrie / Spence, Scott	Division of Highways	\$375.38	\$375.38	12/06/2021
20-0510	Spencer, Archie / Spencer, Lori / Spencer, Erica	Division of Highways	\$1,000.00	\$1,000.00	07/29/2021
21-0158	Spencer, Bryant / Spencer, Tonya	Division of Highways	\$272.51	\$272.51	11/08/2021
20-0631	Sprout, Phyllis W.	Division of Highways	\$350.84	\$350.84	07/01/2021
20-0357	Squires, Regina A.	Division of Highways	\$155.14	\$155.14	08/13/2021
20-0517	St. Clair, Donna L.	Division of Highways	\$1,714.80	\$500.00	11/08/2021
21-0360	Stafford, Beth	Division of Highways	\$365.87	\$365.87	11/08/2021
21-0032	Steele, Mike	Division of Highways	\$301.36	\$301.36	07/01/2021
21-0711	Sunyog, Elizabeth / Sunyog, Scott	Division of Highways	\$340.26	\$340.26	12/06/2021
20-0575	Sutherland, Felisha	Division of Highways	\$325.07	\$50.00	03/10/2021
21-0617	Taft, Rena Kay	Division of Highways	\$500.00	\$500.00	11/08/2021
20-0697	Thaxton, Buddy / Thaxton, Kitty	Division of Highways	\$1.00	\$500.00	07/01/2021
21-0115	Thistlethwaite, Raymond D.	Division of Highways	\$217.79	\$217.79	11/08/2021
21-0576	Thompson, Austin	Division of Highways	\$1.00	\$500.00	12/06/2021
21-0234	Thompson, James	Division of Highways	\$605.05	\$605.05	11/22/2021
21-0445	Thompson, Sarrah	Division of Highways	\$257.94	\$200.00	11/22/2021
21-0310	Toth, Michael	Division of Highways	\$1,173.67	\$500.00	11/08/2021
20-0740	Townsend, Marcina S.	Division of Highways	\$2,069.12	\$500.00	08/13/2021
21-0506	Treadway, Sarah A. / Treadway, Clint P.	Division of Highways	\$1,397.36	\$1,000.00	11/04/2021
21-0674	Triplett, Douglas E.	Division of Highways	\$466.73	\$466.73	12/06/2021
21-0135	Tunison, Sadie	Division of Highways	\$224.34	\$224.34	09/28/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0166	Turner, Justin	Division of Highways	\$1.00	\$657.30	08/13/2021
20-0597	Underwood, Larry	Division of Highways	\$1,463.45	\$279.38	11/22/2021
21-0148	Vance, Opal	Division of Highways	\$267.50	\$267.50	11/22/2021
21-0717	Waid, Mark A.	Division of Highways	\$831.42	\$250.00	12/06/2021
20-0649	Walker, Justin	Division of Highways	\$178.08	\$178.08	04/30/2021
21-0356	Wallace, Rosalyn Lee	Division of Highways	\$695.50	\$500.00	11/22/2021
21-0357	Ward, Robert A.	Division of Highways	\$1,022.77	\$500.00	12/17/2021
21-0160	Watson, Greg / Watson, Robin	Division of Highways	\$355.40	\$227.90	08/13/2021
21-0289	Watterson, David	Division of Highways	\$392.26	\$250.00	11/22/2021
19-0390	Watts, Donna	Division of Highways	\$525.00	\$589.04	05/24/2021
21-0614	Weese, Aleacea / Weese, Rodney	Division of Highways	\$500.00	\$500.00	11/04/2021
20-0708	Wehner, Heidi	Division of Highways	\$1.00	\$500.00	04/30/2021
21-0118	Wertheim, Angela M.	Division of Highways	\$500.00	\$500.00	09/27/2021
21-0748	Westfall, Karen	Division of Highways	\$976.35	\$976.35	12/17/2021
20-0707	White, Frederick J. / White, Claire L.	Division of Highways	\$211.89	\$211.89	04/30/2021
21-0217	White, Lawrence Joseph	Division of Highways	\$259.65	\$259.65	11/04/2021
21-0080	Willey, Shawn / Willey, Susan	Division of Highways	\$787.52	\$787.52	09/27/2021
21-0406	Williams, James	Division of Highways	\$170.00	\$165.25	09/28/2021
19-1051	Wilson, Kristen	Division of Highways	\$110.64	\$110.64	12/17/2021
21-0191	Wisecup, Hannah	Division of Highways	\$989.79	\$500.00	08/13/2021
20-0701	Wolen, David F.	Division of Highways	\$275.00	\$275.60	09/28/2021
21-0252	Wolford, David	Division of Highways	\$726.95	\$500.00	09/27/2021
20-0638	Yanok, Brian	Division of Highways	\$160.50	\$160.50	07/01/2021
21-0127	Young, Amy	Division of Highways	\$195.86	\$195.86	09/28/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0297	Willard, Brittany R.	Division of Highways, NO MAPPING - MANUAL FIX	\$1,000.13	\$1,000.00	12/17/2021
20-0714	Johnson, Joyce	Division of Highways, State Rail Authority	\$1.00	\$128.61	07/13/2021
20-0730	Jackson Kelly PLLC	Division of Motor Vehicles	\$315.00	\$315.00	03/17/2021
21-0476	John's Lock and Key Service	Joint Committee on Government & Finance	\$135.00	\$135.00	07/13/2021
20-0553	City of Charleston WV	Office of Technology	\$130.00	\$130.00	03/10/2021
19-1144	Mahantech Corp.	Office of Technology	\$12,072.00	\$12,072.00	03/10/2021
21-0752	Mahantech Corporation	Office of Technology	\$12,960.00	\$12,960.00	11/09/2021
20-0322	Pomeroy IT Solution Sales Co Inc.	Office of Technology	\$6,225.01	\$4,691.96	11/09/2021
21-0321	Pomeroy Technologies, LLC	Office of Technology	\$65,163.88	\$65,163.88	07/02/2021
21-0320	Pomeroy Technologies, LLC	Office of Technology	\$122,840.03	\$122,840.03	07/02/2021
20-0698	Pomeroy Technologies, LLC	Office of Technology	\$214,970.07	\$61,420.02	03/10/2021
21-0039	Ricoh USA	Office of Technology	\$4,202.70	\$4,202.70	03/10/2021
20-0651	Ricoh USA Inc.	Office of Technology	\$16,972.84	\$16,972.84	03/10/2021
21-0791	Ricoh USA, Inc.	Office of Technology	\$715.79	\$715.79	11/09/2021
21-0790	Ricoh USA, Inc.	Office of Technology	\$787.66	\$787.66	11/09/2021
21-0788	Ricoh USA, Inc.	Office of Technology	\$15,427.70	\$15,427.70	11/09/2021
21-0787	Ricoh USA, Inc.	Office of Technology	\$1,529.45	\$1,529.45	11/09/2021
21-0786	Ricoh USA, Inc.	Office of Technology	\$14,509.20	\$14,509.20	11/09/2021
21-0785	Ricoh USA, Inc.	Office of Technology	\$428.95	\$428.95	11/09/2021
21-0784	Ricoh USA, Inc.	Office of Technology	\$1,195.15	\$1,195.15	11/09/2021
21-0696	Ricoh USA, Inc.	Office of Technology	\$1,529.55	\$1,529.55	11/09/2021
21-0695	Ricoh USA, Inc.	Office of Technology	\$1,512.65	\$1,512.65	11/09/2021
21-0694	Ricoh USA, Inc.	Office of Technology	\$1,498.95	\$1,498.95	09/28/2021
21-0693	Ricoh USA, Inc.	Office of Technology	\$9,840.85	\$9,840.85	09/28/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0692	Ricoh USA, Inc.	Office of Technology	\$8,371.20	\$8,371.20	09/28/2021
21-0691	Ricoh USA, Inc.	Office of Technology	\$3,491.50	\$3,491.50	09/28/2021
21-0071	Ricoh USA, Inc.	Office of Technology	\$8,679.20	\$8,679.20	04/30/2021
21-0040	Ricoh USA, Inc.	Office of Technology	\$2,713.45	\$2,713.45	03/10/2021
20-0664	SHI International Corporation	Office of Technology	\$773.94	\$773.94	03/10/2021
21-0673	West Virginia Network	Office of Technology	\$28,950.00	\$28,950.00	09/28/2021
18-1228	Landers, Douglas Lee	Regional Jail and Correctional Facility Authority	\$1.00	\$1,753.44	09/28/2021
21-0285	White, Ted Alford	WV Parole Board	\$3,051.54	\$3,051.54	07/02/2021
			\$1,262,531.16	\$1,057,265.9	

## Claims presented to the 2022 Legislature

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
20-0672	Affordable Funeral and Cremation Center/Bolyard Funeral Home	Department of Health and Human Resources	\$1,250.00	\$1,250.00	09/21/2021
21-0365	Evans-Calfee Funeral Service	Department of Health and Human Resources	\$1,200.00	\$1,200.00	07/02/2021
21-0464	Samco Financial Services Corporation	Tax Department	\$720.00	\$720.00	11/09/2021
21-0463	Samco Financial Services Corporation	Tax Department	\$385.00	\$385.00	11/09/2021
			<b>\$3,555.00</b>	<b>\$3,555.00</b>	

## Claims presented to the 2022 Legislature

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
17-0533	Fayette County Board of Education	Department of Education	\$2,506,539.00	\$0.00	12/20/2021
17-0534	Greenbrier County Board of Education	Department of Education	\$457,856.00	\$0.00	12/20/2021
17-0531	Kanawha County Board of Education	Department of Education	\$5,321,748.00	\$0.00	12/20/2021
17-0532	Marion County Board of Education	Department of Education	\$1,605,775.00	\$0.00	12/20/2021
17-0530	Pocahontas County Board of Education	Department of Education	\$1,289,986.00	\$0.00	12/20/2021
17-0537	Randolph County Board of Education	Department of Education	\$564,602.00	\$0.00	12/20/2021
15-1422	Hardman, Ashley / Hardman, Craig	Department of Environmental Protection	\$200,000.00	\$0.00	12/17/2021
20-0321	Pomeroy IT Solution Sales Co. Inc.	Department of Environmental Protection	\$2,625.00	\$0.00	11/09/2021
20-0304	Pomeroy IT Solution Sales Co. Inc.	Department of Environmental Protection	\$3,001.60	\$0.00	03/10/2021
21-0225	Petry Funeral Homes LLC	Department of Health and Human Resources	\$1,000.00	\$0.00	12/17/2021
19-1495	Bagent, Scott	Division of Corrections and Rehabilitation	\$20.00	\$0.00	11/29/2021
20-0581	Bennett, Tony	Division of Corrections and Rehabilitation	\$1.00	\$0.00	05/24/2021
19-1506	Best, Mark	Division of Corrections and Rehabilitation	\$224.74	\$0.00	07/01/2021
19-1547	Buzzard, David D	Division of Corrections and Rehabilitation	\$898.37	\$0.00	11/29/2021
19-1431	Chapman, Kevin	Division of Corrections and Rehabilitation	\$1,234.51	\$0.00	07/13/2021
19-1389	Cleveland, Ha'Son	Division of Corrections and Rehabilitation	\$966.55	\$0.00	05/25/2021
20-0201	Cummings, Robert	Division of Corrections and Rehabilitation	\$20.60	\$0.00	05/25/2021
20-0190	Cummings, Robert	Division of Corrections and Rehabilitation	\$336.28	\$0.00	05/25/2021
20-0214	Deitz, Joshua	Division of Corrections and Rehabilitation	\$400.00	\$0.00	05/25/2021
20-0210	Deitz, Joshua T.	Division of Corrections and Rehabilitation	\$1.00	\$0.00	05/25/2021
19-1303	Delgado, Miguel	Division of Corrections and Rehabilitation	\$25.00	\$0.00	07/01/2021
21-0458	Dement, Keith	Division of Corrections and Rehabilitation	\$159.57	\$0.00	12/06/2021
19-1524	Dement, Keith	Division of Corrections and Rehabilitation	\$159.57	\$0.00	05/24/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0076	Evans, Billy	Division of Corrections and Rehabilitation	\$831.44	\$0.00	09/28/2021
20-0702	Foster, Codey	Division of Corrections and Rehabilitation	\$615.00	\$0.00	12/17/2021
20-0688	Freeland, Aron	Division of Corrections and Rehabilitation	\$40,000.00	\$0.00	03/10/2021
20-0644	Freeland, Aron	Division of Corrections and Rehabilitation	\$40,000.00	\$0.00	03/10/2021
20-0620	Freeland, Aron	Division of Corrections and Rehabilitation	\$20,000.00	\$0.00	03/10/2021
20-0618	Freeland, Aron	Division of Corrections and Rehabilitation	\$1,500.00	\$0.00	03/17/2021
20-0259	Freeland, Aron	Division of Corrections and Rehabilitation	\$43.81	\$0.00	11/29/2021
18-1504	Goodman, Troy	Division of Corrections and Rehabilitation	\$75.00	\$0.00	05/24/2021
20-0193	Graening, Tyler Howard	Division of Corrections and Rehabilitation	\$1.00	\$0.00	11/29/2021
21-0037	Jenner, Howard C.	Division of Corrections and Rehabilitation	\$86.89	\$0.00	09/28/2021
20-0421	Johnson, William M.	Division of Corrections and Rehabilitation	\$100.00	\$0.00	05/24/2021
20-0564	Knight, Kenneth Henry	Division of Corrections and Rehabilitation	\$50.00	\$0.00	05/25/2021
19-0012	Minda, Eric	Division of Corrections and Rehabilitation	\$894.72	\$0.00	05/24/2021
21-0121	Mitchell, Rodger D.	Division of Corrections and Rehabilitation	\$13.00	\$0.00	09/28/2021
19-1288	Morgan, Brian	Division of Corrections and Rehabilitation	\$66.89	\$0.00	05/25/2021
18-1376	Murray, Garland	Division of Corrections and Rehabilitation	\$2,000.00	\$0.00	05/24/2021
21-0122	Newlon, Paul	Division of Corrections and Rehabilitation	\$36.89	\$0.00	09/28/2021
21-0156	Norwood, Travis R.	Division of Corrections and Rehabilitation	\$44.25	\$0.00	12/17/2021
21-0187	Norwood, Travis	Division of Corrections and Rehabilitation	\$12.45	\$0.00	09/28/2021
20-0497	Nuzum, Joseph W.	Division of Corrections and Rehabilitation	\$390.56	\$0.00	07/13/2021
20-0299	Rauch, Jordan	Division of Corrections and Rehabilitation	\$350.00	\$0.00	05/25/2021
18-0833	Reed, Matthew	Division of Corrections and Rehabilitation	\$80.00	\$0.00	05/24/2021
19-0879	Reed, Matthew D.	Division of Corrections and Rehabilitation	\$53.10	\$0.00	05/24/2021
21-0284	Reynolds, Hank	Division of Corrections and Rehabilitation	\$4.77	\$0.00	09/28/2021



Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
19-1176	Riley, Mark	Division of Corrections and Rehabilitation	\$1,750.00	\$0.00	05/25/2021
20-0160	Robey, Christopher	Division of Corrections and Rehabilitation	\$866.15	\$0.00	05/24/2021
20-0585	Rowe, Tammy L.	Division of Corrections and Rehabilitation	\$2,500.00	\$0.00	05/25/2021
20-0377	Taylor, Benjamin	Division of Corrections and Rehabilitation	\$64.25	\$0.00	07/01/2021
20-0456	Walker, Zackery	Division of Corrections and Rehabilitation	\$80.79	\$0.00	07/01/2021
20-0437	Williams, Steven	Division of Corrections and Rehabilitation	\$350.00	\$0.00	05/25/2021
18-1613	Williams, Kevin	Division of Corrections and Rehabilitation	\$710.75	\$0.00	05/24/2021
20-0431	Yeager, Roger Lee	Division of Corrections and Rehabilitation	\$50.00	\$0.00	05/25/2021
19-1517	Moats, Rodney	Division of Corrections and Rehabilitation, Non-State Agency	\$187.00	\$0.00	05/25/2021
20-0656	White, David Clayton	Division of Corrections and Rehabilitation, WV Army National Guard	\$222.00	\$0.00	11/29/2021
18-0470	Adams, Evelyn L. / Adams, Jack L.	Division of Highways	\$2,500.00	\$0.00	09/28/2021
19-0554	Barb, Felinda / McCarty, Martha	Division of Highways	\$1.00	\$0.00	05/24/2021
16-0615	Bart, Theresa L. / Bart, Donald L.	Division of Highways	\$38,645.70	\$0.00	07/13/2021
21-0364	Bisson, John F.	Division of Highways	\$2,000.00	\$0.00	12/17/2021
19-0066	Brown, Kayela / Brown, James R.	Division of Highways	\$1.00	\$0.00	05/24/2021
20-0457	Calloway, Gloria	Division of Highways	\$1.00	\$0.00	03/17/2021
21-0277	Choice, Eric	Division of Highways	\$500.00	\$0.00	11/22/2021
21-0130	Deeter, William	Division of Highways	\$1.00	\$0.00	08/13/2021
20-0562	Derr, Alfred K.	Division of Highways	\$116.60	\$0.00	09/27/2021
20-0738	Dillon, Bernard E. / Hale, Amy	Division of Highways	\$5,000.00	\$0.00	12/06/2021
20-0438	Edwards, Douglas C.	Division of Highways	\$1,486.84	\$0.00	03/17/2021
18-0925	Fletcher, Linda / Fletcher, Thurman	Division of Highways	\$1.00	\$0.00	07/13/2021
20-0218	Fredrick, Jonathan	Division of Highways	\$500.00	\$0.00	12/17/2021
20-0477	Frye, Carlee	Division of Highways	\$302.50	\$0.00	12/17/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
21-0537	Greenstein, Alan	Division of Highways	\$263.16	\$0.00	12/17/2021
20-0595	Hamidi, Cameron	Division of Highways	\$5,438.19	\$0.00	09/28/2021
19-0159	Harrison, Hubert / Harrison, Michael / Harrison, Angela	Division of Highways	\$10,500.00	\$0.00	07/13/2021
20-0743	Harrison, Marcella K.	Division of Highways	\$1,343.75	\$0.00	09/28/2021
20-0709	Hatfield, Katherine L.	Division of Highways	\$1,835.11	\$0.00	12/17/2021
20-0546	Jett, Christopher	Division of Highways	\$319.10	\$0.00	12/17/2021
20-0541	Johnson, Joseph	Division of Highways	\$1.00	\$0.00	05/24/2021
20-0353	Johnson, Larry	Division of Highways	\$1.00	\$0.00	05/24/2021
20-0536	Jones, Joshua	Division of Highways	\$3,060.51	\$0.00	11/22/2021
20-0476	Jordan, Karen S.	Division of Highways	\$1.00	\$0.00	05/24/2021
20-0641	Makricostas, Dean G.	Division of Highways	\$2,245.40	\$0.00	11/22/2021
20-0548	May, Veronica	Division of Highways	\$1,509.32	\$0.00	12/17/2021
21-0065	Mercer, Gary J	Division of Highways	\$3,564.00	\$0.00	09/28/2021
18-1379	Nestor, Karen E. / Nestor, Randy G.	Division of Highways	\$82,000.00	\$0.00	07/13/2021
19-1324	Nicholson, Richard D.	Division of Highways	\$137.50	\$0.00	12/17/2021
19-0635	Prater, Sierra / Prater, Cecilia	Division of Highways	\$6,000.00	\$0.00	12/17/2021
20-0518	Pritt, Harry C.	Division of Highways	\$233.84	\$0.00	03/29/2021
19-0078	Roush, Warner	Division of Highways	\$2,500.00	\$0.00	09/28/2021
20-0434	Rule, James A. / Rule, Linda S.	Division of Highways	\$180.20	\$0.00	03/17/2021
20-0676	Scott, Dell	Division of Highways	\$105.95	\$0.00	05/24/2021
21-0429	Shepherd, Kenneth	Division of Highways	\$3,999.66	\$0.00	09/28/2021
20-0386	Sherman, Carol A. / Sherman, Clayton W.	Division of Highways	\$194.51	\$0.00	04/30/2021
18-1604	Simmons, Charles D.	Division of Highways	\$4,741.52	\$0.00	05/24/2021
21-0174	Sirbaugh, Christina Beth	Division of Highways	\$1,487.00	\$0.00	11/08/2021

Claim Number	Claimants	Respondents	Amount Claimed	Amount Awarded	Date of Opinion
16-0639	Smith, Darlene / Smith, Timothy W.	Division of Highways	\$1.00	\$0.00	07/13/2021
20-0534	Sutton, Danny	Division of Highways	\$644.16	\$0.00	08/13/2021
20-0511	Taylor, Douglas Ray	Division of Highways	\$9,000.00	\$0.00	07/13/2021
20-0488	Ware, Rachel / Ware, Justin	Division of Highways	\$2,000.00	\$0.00	09/28/2021
20-0568	White, Mary V.	Division of Highways	\$0.00	\$0.00	09/28/2021
20-0329	Williamson, Ernest	Division of Highways	\$1.00	\$0.00	05/24/2021
20-0741	Yoho, Duane S.	Division of Highways	\$1,400.00	\$0.00	09/28/2021
20-0706	Pomeroy Technologies, LLC	Office of Technology	\$214,970.07	\$0.00	03/10/2021
19-1473	Cooper, Michael Dwayne	State of West Virginia	\$1.00	\$0.00	05/24/2021
19-1569	Stanton, as Admin. of the Estate of Spencer Lee Crumbley, Jeffery L.	State of West Virginia	\$1.00	\$0.00	05/24/2021
			\$12,482,347.09	\$0.00	

**WEST VIRGINIA LEGISLATIVE CLAIMS COMMISSION**  
**ABSTRACTS OF AWARDED CLAIMS**

**CLAIMS AGAINST THE DEPARTMENT OF ADMINISTRATION**

**CC-20-0583 STATE ELECTRIC SUPPLY COMPANY v. DEPARTMENT OF ADMINISTRATION**

The Claimant brought this claim to recover \$4,317.53 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$4,317.53.

AMOUNT CLAIMED: \$4,317.53

AMOUNT AWARDED: \$4,317.53

**CC-20-0586 WEST VIRGINIA NETWORK (WVNET) v. DEPARTMENT OF ADMINISTRATION**

The Claimant brought this claim to recover \$18,670.24 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$18,670.24.

AMOUNT CLAIMED: \$18,670.24

AMOUNT AWARDED: \$18,670.24

**CLAIM AGAINST THE DEPARTMENT OF ADMINISTRATION, IS AND C CENTRAL MAIL**

**CC-21-0295 DMT SOLUTIONS GLOBAL CORPORATION DBA BLUECREST v. STATE OF WEST VIRGINIA IS AND C CENTRAL MAIL**

The Claimant brought this claim to recover \$8,000.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$8,000.00.

AMOUNT CLAIMED: \$8,000.00

AMOUNT AWARDED: \$8,000.00

**CLAIMS AGAINST THE DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

**CC-20-0553 CITY OF CHARLESTON, WEST VIRGINIA v. OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$130.00 for unpaid parking tickets accrued by the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the tickets could have been paid. The Claims Commission recommended an award in the amount of \$130.00.

AMOUNT CLAIMED: \$130.00

AMOUNT AWARDED: \$130.00

**CC-19-1144 MAHANTECH CORPORATION v. OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$12,072.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$12,072.00.

AMOUNT CLAIMED: \$12,072.00

AMOUNT AWARDED: \$12,072.00

**CC-21-0752 MAHANTECH CORPORATION v. OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$12,960.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$12,960.00.

AMOUNT CLAIMED: \$12,960.00

AMOUNT AWARDED: \$12,960.00

**CC-20-0322 POMEROY TECHNOLOGIES, INC. v. OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$6,225.01 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim as to the amount of \$4,692.96 and asserted that the remainder of the claimed amount had been previously paid. The Claimant did not submit any additional documentation to dispute the Respondent's assertions. The Respondent further stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices in the amount of \$4,692.96 could have been paid. The Claims Commission recommended an award in the amount of \$4,692.96.

AMOUNT CLAIMED: \$6,225.01

AMOUNT AWARDED: \$4,692.96

**CC-20-0698 POMEROY TECHNOLOGIES, INC. v. DEPARTMENT OF ADMINISTRATION,  
OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$214,970.07 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim as to the amount of \$61,420.02 and asserted that the remainder of the claimed amount had been previously paid. The Claimant did not submit any additional documentation to dispute the Respondent's assertions. The Respondent further stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices in the amount of \$61,420.02 could have been paid. The Claims Commission recommended an award in the amount of \$61,420.02.

AMOUNT CLAIMED: \$214,970.07

AMOUNT AWARDED: \$61,420.02

**CC-21-0320 POMEROY TECHNOLOGIES, INC. v. DEPARTMENT OF ADMINISTRATION,  
OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$122,840.03 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$122,840.03.

AMOUNT CLAIMED: \$122,840.03

AMOUNT AWARDED: \$122,840.03

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**CC-21-0321 POMEROY TECHNOLOGIES, INC. v. DEPARTMENT OF ADMINISTRATION,  
OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$65,163.88 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$65,163.88.

AMOUNT CLAIMED: \$65,163.88

AMOUNT AWARDED: \$65,163.88

**CC-20-0623 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF  
TECHNOLOGY**

The Claimant brought this claim to recover \$31,303.87 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$31,303.87.

AMOUNT CLAIMED: \$31,303.87

AMOUNT AWARDED: \$31,303.87

**CC-20-0651 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$16,972.84 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$16,972.84.

AMOUNT CLAIMED: \$16,972.84

AMOUNT AWARDED: \$16,972.84

**CC-21-0039 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$4,202.70 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$4,202.70.

AMOUNT CLAIMED: \$4,202.70

AMOUNT AWARDED: \$4,202.70

**CC-21-0040 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$2,713.45 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$2,713.45.

AMOUNT CLAIMED: \$2,713.45

AMOUNT AWARDED: \$2,713.45

**CC-21-0071 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$8,679.20 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$8,679.20.

AMOUNT CLAIMED: \$8,679.20

AMOUNT AWARDED: \$8,679.20

**CC-21-0691 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$3,491.50 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$3,491.50.

AMOUNT CLAIMED: \$3,491.50

AMOUNT AWARDED: \$3,491.50

**CC-21-0692 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$8,371.20 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$8,371.20.

AMOUNT CLAIMED: \$8,371.20

AMOUNT AWARDED: \$8,371.20

**CC-21-0693 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$9,840.85 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$9,840.85.

AMOUNT CLAIMED: \$9,840.85

AMOUNT AWARDED: \$9,840.85

**CC-21-0694 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$1,498.95 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$1,498.95.

AMOUNT CLAIMED: \$1,498.95

AMOUNT AWARDED: \$1,498.95



**CC-21-0695 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$1,512.65 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$1,512.65.

AMOUNT CLAIMED: \$1,512.65

AMOUNT AWARDED: \$1,512.65

**CC-21-0696 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$1,529.55 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$1,529.55.

AMOUNT CLAIMED: \$1,529.55

AMOUNT AWARDED: \$1,529.55

**CC-21-0784 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$1,195.15 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$1,195.15.

AMOUNT CLAIMED: \$1,195.15

AMOUNT AWARDED: \$1,195.15

**CC-21-0785 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$428.95 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$428.95.

AMOUNT CLAIMED: \$428.95

AMOUNT AWARDED: \$428.95

**CC-21-0786 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$14,509.20 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$14,509.20.

AMOUNT CLAIMED: \$14,509.20

AMOUNT AWARDED: \$14,509.20

**CC-21-0787 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$1,529.45 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$1,529.45.

AMOUNT CLAIMED: \$1,529.45

AMOUNT AWARDED: \$1,529.45

**CC-21-0788 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$15,427.70 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$15,427.70.

AMOUNT CLAIMED: \$15,427.70

AMOUNT AWARDED: \$15,427.70

**CC-21-0790 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$787.66 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$787.66.

AMOUNT CLAIMED: \$787.66

AMOUNT AWARDED: \$787.66

**CC-21-0791 RICOH USA v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$715.79 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$715.79.

AMOUNT CLAIMED: \$715.79

AMOUNT AWARDED: \$715.79

**CC-20-0663 SHI INTERNATIONAL CORPORATION v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$15,013.12 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$15,013.12.

AMOUNT CLAIMED: \$15,013.12

AMOUNT AWARDED: \$15,013.12

**CC-20-0664 SHI INTERNATIONAL CORPORATION v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$773.94 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$773.94.

AMOUNT CLAIMED: \$773.94

AMOUNT AWARDED: \$773.94

**CC-21-0673 WEST VIRGINIA NETWORK v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$28,950.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$28,950.00.

AMOUNT CLAIMED: \$28,950.00

AMOUNT AWARDED: \$28,950.00

**CLAIMS AGAINST THE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**CC-20-0721 CHEMSTREAM, INC. v. DEPARTMENT OF ENVIRONMENTAL PROTECTION, OFFICE OF SPECIAL RECLAMATION**

The Claimant brought this claim to recover \$11,966.40 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$11,966.40.

AMOUNT CLAIMED: \$11,966.40

AMOUNT AWARDED: \$11,966.40

**CC-21-0637 KEMRON ENVIRONMENTAL SERVICES v. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Claimant brought this claim to recover \$3,103.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$3,103.00.

AMOUNT CLAIMED: \$3,103.00

AMOUNT AWARDED: \$3,103.00

**CC-21-0638 KEMRON ENVIRONMENTAL SERVICES v. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Claimant brought this claim to recover \$325.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$325.00.

AMOUNT CLAIMED: \$325.00

AMOUNT AWARDED: \$325.00

**CC-20-0499 MON VALLEY INTEGRATION, INC. v. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Claimant brought this claim to recover \$47,293.01 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$47,293.01.

AMOUNT CLAIMED: \$47,293.01

AMOUNT AWARDED: \$47,293.01

**CLAIM AGAINST THE DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**CC-20-0726 CINDY L. HARRISON AND DANIEL L. HARRISON, SR. v. DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

The Claimants brought this claim to recover \$751.29 for providing professional services pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$751.29.

AMOUNT CLAIMED: \$751.29

AMOUNT AWARDED: \$751.29

**CLAIMS AGAINST THE DEPARTMENT OF VETERANS ASSISTANCE**

**CC-20-0760 THE DAVIS GROUP, INC. DBA TEAYS MAIDS v. DEPARTMENT OF VETERANS ASSISTANCE**

The Claimant brought this claim to recover \$2,470.00 for providing professional services pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$2,470.00.

AMOUNT CLAIMED: \$2,470.00

AMOUNT AWARDED: \$2,470.00

**CLAIMS AGAINST THE DIVISION OF CORRECTIONS AND REHABILITATION**

**CC-20-0747 WILLIE JAY COPLEY v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his personal property. At the hearing, the Claimant testified that on December 27, 2019, following a water shutdown due to plumbing problems in his prison pod, the Respondent's maintenance employees restored the water service to his cell. After the water service was restored, the toilet in his cell developed a problem and the contents of the toilet bowl erupted throughout the Claimant's cell, destroying his personal property. As a result of the toilet eruption, the Claimant's personal property items, including all of his legal papers, had to be destroyed and discarded. The Claimant placed a value of \$1,250.00 on the damaged property, which included the fee of \$1,027.00 for reproducing a complete copy of his criminal case file from the Wayne County Circuit Court.

The Respondent disputed the validity of the claim in its pleadings. At the hearing, the Respondent admitted liability but contested the value the Claimant had placed on his destroyed property.

The Legislative Claims Commission found that the Respondent had a duty to exercise reasonable and ordinary care with respect to the Claimant's property but failed to do so on the date of the

incident. The Claims Commission recommended an award to the Claimant in the sum of \$1,250.00.

AMOUNT CLAIMED: \$1,250.00

AMOUNT AWARDED: \$1,250.00

**CC-19-1484 MICHAEL DWAYNE COSNER v. DIVISION OF CORRECTIONS AND REHABILITATION**

The parties stipulated as follows: On or about November 6, 2019, the Claimant was released from Eastern Regional Jail. He alleged that certain items of his personal property, including boots, pants, a shirt, socks and underwear, were lost while he was incarcerated. The Claimant placed a value of \$380.00 on his personal property. The Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent.

The Legislative Claims Commission found that a bailment situation was created and that the Respondent was responsible for the lost property of the Claimant. The sum of \$380.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$380.00

AMOUNT AWARDED: \$380.00

**CC-20-0464 TRACY CRAFT v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant, an inmate at Mount Olive Correctional Complex, filed this action to recover the value of certain personal property that he alleged was lost while under the care of the Respondent. The Claimant was transferred to the medical unit and then the segregation unit on or about December 5, 2019. Upon his release from segregation and return to the general prison population, he discovered that some of his personal property was missing. He placed a value of \$1,062.70 on his missing property. The Claimant submitted invoices and receipts totaling \$434.97. The Claimant exhausted his administrative remedies before filing this claim.

The Respondent admitted liability but disputed the validity of the damages claimed by the Claimant.

The Legislative Claims Commission found that a bailment situation existed between the Claimant and the Respondent and recommended an award to the Claimant in the sum of \$434.97.

AMOUNT CLAIMED: \$1,062.70

AMOUNT AWARDED: \$434.97

**CC-20-0758 MIGUEL DELGADO v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant, an inmate at Mount Olive Correctional Complex, filed this action to recover the value of certain personal property that he alleged was lost while under the care of the Respondent. The Claimant was placed in segregation on or about November 13, 2020. Upon his release from segregation and return to the general prison population, he discovered that some of his personal property was missing. He placed a value of \$23.75 on his missing property. The Claimant exhausted his administrative remedies before filing this claim.

The Respondent disputed the validity of the claim.

The Legislative Claims Commission found that a bailment situation existed between the Claimant and the Respondent and recommended an award to the Claimant in the sum of \$23.75.

AMOUNT CLAIMED: \$23.75

AMOUNT AWARDED: \$23.75

**CC-21-0153 MIGUEL DELGADO v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant is incarcerated at Mount Olive Correctional Complex. The Claimant alleged that on January 8, 2021, a shelving unit from his cell was confiscated by the Respondent's employees; he was not provided with a seizure report. The Claimant exhausted his administrative remedies prior to filing this claim. He placed a value of \$50.00 on the confiscated shelving unit.

The Respondent disputed the validity of the claim.

The Legislative Claims Commission found that the Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent. The Claims Commission determined that a bailment situation existed and that the Respondent was responsible for the Claimant's property and that an award was due to the Claimant.

AMOUNT CLAIMED: \$50.00

AMOUNT AWARDED: \$50.00

**CC-19-1294 HENRY T. DUNCAN v. DIVISION OF CORRECTIONS AND REHABILITATION**

The parties stipulated as follows: On August 2, 2019, the Claimant was incarcerated at Northern Correctional Complex. He alleged that his watch was damaged by the Respondent's employees while they were performing maintenance in his cell. The Claimant placed a value of \$44.22 on his personal property. The Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent.

The Legislative Claims Commission found that a bailment situation was created and that the Respondent was responsible for the damaged property of the Claimant. The sum of \$44.22 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$44.22

AMOUNT AWARDED: \$380.00

**CC-19-1295 HENRY T. DUNCAN v. DIVISION OF CORRECTIONS AND REHABILITATION**

The parties stipulated as follows: On December 19, 2018, the Claimant was transferred from Northern Correctional Complex to Huttonsville Correctional Center. He alleged that he was prohibited from taking his television with him to Huttonsville and had to mail it to his family. When he was transferred back to Northern, he was prohibited from having his family return the television to him pursuant to the Respondent's policy directives. The Claimant placed a value of \$226.84 on his personal property. The Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent.

The Legislative Claims Commission found that a bailment situation was created and that the Respondent was responsible for the damaged property of the Claimant. The sum of \$226.84 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$226.84

AMOUNT AWARDED: \$226.84

**CC-19-1296 HENRY T. DUNCAN v. DIVISION OF CORRECTIONS AND REHABILITATION**

The parties stipulated as follows: On December 19, 2018, the Claimant was transferred from Northern Correctional Complex to Huttonsville Correctional Center. He alleged that he was prohibited from taking several items of his personal property with him and he alleged that he was forced to dispose of these items. When he was transferred back to Northern, he had to repurchase these items. The Claimant placed a value of \$57.65 on his personal property. The Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent.

The Legislative Claims Commission found that a bailment situation was created and that the Respondent was responsible for the damaged property of the Claimant. The sum of \$57.65 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$57.65

AMOUNT AWARDED: \$57.65

**CC-20-0352 HENRY T. DUNCAN v. DIVISION OF CORRECTIONS AND REHABILITATION**

The parties stipulated as follows: On May 3, 2019, the Claimant was incarcerated at Northern Correctional Complex. He alleged that he was attacked in his cell by two other inmates. He further alleged that these inmates stole certain items of his personal property, including CD's, a DC player, headphones, shoes, clothing items and personal hygiene items. The Claimant placed a value of \$553.13 on his personal property. The Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent.

The Legislative Claims Commission found that a bailment situation was created and that the Respondent was responsible for the damaged property of the Claimant. The sum of \$553.13 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$553.13

AMOUNT AWARDED: \$553.13

**CC-20-0284 THOMAS FERGUSON v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant is incarcerated at Mount Olive Correctional Complex. The Claimant alleged that he was transferred to segregation and his personal property was packed up for storage. Upon his release from segregation, he discovered that his headphones were missing and his commissary had been destroyed. The Claimant exhausted his administrative remedies prior to filing this claim. He placed a value of \$26.00 on the headphones and a value of \$97.64 on the commissary.

The Respondent disputed the validity of the claim. The Respondent asserted that it had complied with its policy directives concerning the storage of food items.



The Legislative Claims Commission found that the Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent. The Claims Commission determined that a bailment situation existed and that the Respondent was responsible for the Claimant's property with respect to the headphones. The Claims Commission further found that the Respondent had followed its policy directives concerning the storage of food items and that the Claimant's commissary was handled properly since the Claimant was in segregation beyond a period of three days. The Claims Commission recommended an award in the amount of \$26.00.

AMOUNT CLAIMED: \$123.64

AMOUNT AWARDED: \$26.00

**CC-20-0480 KEVIN HAMILL v. DIVISION OF CORRECTIONS AND REHABILITATION**

The parties stipulated as follows: Between May 15, 2019 and June 16, 2020, the Claimant was in the segregation unit at Mount Olive Correctional Complex. Upon the Claimant's return to general population, he discovered that his Los Angeles Lakers hat and other items were lost. The Claimant placed a value of \$37.99 on his lost property. The Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent.

The Legislative Claims Commission found that a bailment situation was created and that the Respondent was responsible for the lost property of the Claimant. The parties agreed that the sum of \$18.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$37.99

AMOUNT AWARDED: \$18.00

**CC-18-1228 DOUGLAS LEE LANDERS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property items that he alleged were lost while under the care of the Respondent. He further sought relief for allegedly serving time beyond his original sentence. Upon his release from South Central Regional Jail, the Claimant discovered certain personal property items had been lost. He submitted invoices in the amount of \$1,753.44. The Claimant testified that he believed he had served extra time beyond his original sentence; the motions he filed in the Circuit Court of Kanawha County regarding his sentencing were denied.

The Respondent admitted liability as to the lost property and agreed to stipulate to the payment for the Claimant's loss. The Respondent asserted that the Legislative Claims Commission did not have the requisite jurisdiction to preside over the issues related to the Claimant's allegations concerning his sentencing as those could be maintained in the courts of the State.

The Legislative Claims Commission found that it did not have the requisite jurisdiction as to the Claimant's allegations regarding his sentencing as those allegations may be properly maintained in a court of the State. The Claim Commission further found that a bailment situation existed between the Claimant and the Respondent and recommended an award to the Claimant in the sum of \$1,753.44.

AMOUNT CLAIMED: \$1,753.44

AMOUNT AWARDED: \$1,753.44

**CC-21-0106 MICHAEL NEEL v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant, an inmate at Mount Olive Correctional Complex, filed this claim to recover the value of a television set that he alleged was lost while under the care of the Respondent. The Claimant ordered a television from Keefe Commissary Network; the sum of \$222.60 was deducted from his trustee account. The Claimant alleged that he never received the television after it arrived at the State Shop nor did he receive a refund for the allegedly missing television.

The Respondent disputed the validity of the claim.

The Legislative Claims Commission found that a bailment situation existed between the Claimant and the Respondent and recommended an award to the Claimant in the sum of \$222.60.

AMOUNT CLAIMED: \$222.60

AMOUNT AWARDED: \$222.60

**CC-19-1402 KENNETH R. PECK, JR. v. DIVISION OF CORRECTIONS AND REHABILITATION**

The parties stipulated as follows: In April, 2019, the Claimant was transferred by a transport van from Tygart Valley Regional Jail to Potomac Highlands Regional Jail. The Claimant's personal property was not transferred with him due to cargo limitations in the van. His property was to be transferred at a later time but was never delivered to him. The Claimant placed a value of \$1,200.00 on his lost property. The Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent.

The Legislative Claims Commission found that a bailment situation was created and that the Respondent was responsible for the lost property of the Claimant. The parties agreed that the sum of \$1,200.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,200.00

AMOUNT AWARDED: \$1,200.00

**CC-21-0057 QUANTEL O. SAUNDERS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant, an inmate at Mount Olive Correctional Complex, sought to recover the value of certain personal property that he alleged was wrongfully confiscated by the Respondent. The Claimant was transferred from Mount Olive to Southern Regional Jail for the duration of his criminal trial. He alleged that the Respondent's employees at Mount Olive failed to properly pack, inventory and store his personal property while he was housed at another facility. Upon his return to Mount Olive, he discovered that items of his personal property were missing, including a television, a CD player, clothing items, video games and shoes. The Claimant exhausted his administrative remedies before filing this claim. The Claimant placed a value of \$10,000.00 on his lost property; he submitted receipts in the amount of \$1,589.21 in support of his claim.

The Respondent disputed the validity of the claim.

The Legislative Claims Commission found that the Respondent was responsible for the Claimant and his property while he was in the custody of the Respondent. The Claims Commission

determined that a bailment situation existed and that the Respondent was responsible for the Claimant's property and that an award was due to the Claimant.

AMOUNT CLAIMED: \$10,000.00

AMOUNT AWARDED: \$1,589.21

**CC-20-0414 THOMAS M. WHITE, JR. v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant, an inmate at Mount Olive Correctional Complex, filed this action to recover the value of certain personal property that he alleged was lost while under the care of the Respondent. The Claimant was placed in segregation on May 15, 2019. Upon his release from segregation and return to the general prison population, he discovered that some of his personal property was missing. He placed a value of \$107.78 on his missing property; he did not submit any receipts or invoices regarding the value of the missing property. The Claimant exhausted his administrative remedies before filing this claim.

The Respondent disputed the validity of the claim. The Respondent asserted that some of the items listed on the Claimant's Notice of Claim form were not listed on the Claimant's Personal Property inventory forms that were on file at Mount Olive.

The Legislative Claims Commission found that a bailment situation existed between the Claimant and the Respondent and recommended an award for those items listed on the Claimant's personal property inventory cards in the sum of \$80.84.

AMOUNT CLAIMED: \$107.78

AMOUNT AWARDED: \$80.84

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**CLAIMS AGAINST THE DIVISION OF HIGHWAYS**

**CC-21-0423 MALIHEH ABED v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2020 Honda Civic on Brookhaven Road in Morgantown, Monongalia County on April 20, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$237.95; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Brookhaven Road on the date of the incident and failed to do so properly. The sum of \$237.95 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$237.95

AMOUNT AWARDED: \$237.95

**CC-20-0735 DONALD ABEL AND SHERRY ABEL v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2018 Chevrolet K1500 on Doolin Run Road in New Martinsville, Wetzel County on December 9, 2020 when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$749.00; their collision insurance required a deductible of \$500.00. The Respondent was

responsible for the maintenance of Doolin Run Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$749.00

AMOUNT AWARDED: \$500.00

**CC-21-0175 EDWARD L. ABRAHAM v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Mini Clubman on West Virginia Route 131 in Bridgeport, Harrison County on February 19, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$538.86; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 131 on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$538.86

AMOUNT AWARDED: \$500.00

**CC-20-0491 GREGORY L. ADAMS, SR. v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: In February, 2020, the Claimant's rental property was flooded after a heavy rainstorm. He alleged that the flooding was proximately caused by a blockage in the Respondent's drainage system along Second Avenue in Logan, Logan County. The Respondent was responsible for the maintenance of the drainage systems on Second Avenue. The Respondent denied any negligence but acknowledged that the Claimant's property sustained damage. The parties agreed that the settlement of this claim was mutually advantageous to both parties and agreed that the sum of \$4,500.00 was a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$4,500.00

AMOUNT AWARDED: \$4,500.00

**CC-21-0079 JAMES E. ADKINS, JR. v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 6, 2021, the Claimant was driving his 2017 Honda Accord on the entrance ramp to Interstate 64 East in South Charleston, Kanawha County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$182.36; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$182.36 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$182.36

AMOUNT AWARDED: \$182.36

**CC-20-0558 JARED ADKINS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 17, 2020, the Claimant was driving his 2017 Chevrolet Corvette C7 on West Virginia Route 12 near Peterstown, Monroe County when his vehicle struck a section of cut-out pavement which was covered with loose gravel and situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of

\$7,300.69; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 12 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$7,300.69

AMOUNT AWARDED: \$500.00

**CC-21-0434 FARHAN AHMED v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2019 Tesla S7 on the exit ramp of Interstate 68 East at Exit 7 in Morgantown, Monongalia County on May 4, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$463.45; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 68 East on the date of the incident and failed to do so properly on the date of the incident. The sum of \$463.45 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$463.45

AMOUNT AWARDED: \$463.45

**CC-21-0011 DAVID S. ALLARD AND STEPHANIE ALLARD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 15, 2020, the Claimant was driving his 2013 Mercedes Benz C300 on Ritter Drive in Beckley, Raleigh County when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$3,956.68; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Ritter Drive and failed to do so properly on the date of the incident. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$3,956.68

AMOUNT AWARDED: \$1,000.00

**CC-21-0204 BRENDA C. ALLRED v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 5, 2021, the Claimant was driving her 2019 Buick Regal on West Virginia Route 34 in Hurricane, Putnam County, when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$278.12; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 34 and failed to do so properly on the date of the incident. The sum of \$278.12 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$278.12

AMOUNT AWARDED: \$278.12

**CC-19-0490 MICHELLE ALITIZER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2014 Dodge Charger on West Virginia Route 16 in Kisler, Logan County on February 13, 2019 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,138.00; her collision insurance required a deductible of \$250.00. The Respondent

was responsible for the maintenance of West Virginia Route 16 on the date of the incident and failed to do so properly. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,138.00

AMOUNT AWARDED: \$250.00

**CC-21-0038 KATHY J. ANDERSON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On December 12, 2020, the Claimant was driving her 2013 Ford Focus on Poplar Fork Road in St. Albans, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$664.63; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Poplar Fork Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$664.63

AMOUNT AWARDED: \$500.00

**CC-21-0345 TIMOTHY ANDREW AND MEKELL J. DEMARY-ANDREW v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2014 Mercedes GLK-350 on Interstate 79 North near Fairmont, Marion County on February 24, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$265.36; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 North and failed to do so properly on the date of the incident. The sum of \$265.36 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$265.36

AMOUNT AWARDED: \$265.36

**CC-21-0573 AMY ARNETT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 22, 2021, the Claimant was driving her 2007 Hyundai Sonata on Interstate 64 East in Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$203.13; she did not carry collision insurance on her vehicle. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$203.13 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$203.13

AMOUNT AWARDED: \$203.13

**CC-21-0440 MARC D. ARNOLD v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2020 Mercedes E450 on Interstate 64 East near Dunbar, Kanawha County on March 1, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$340.50; his collision insurance required a deductible of \$2,000.00. The Respondent

was responsible for the maintenance of Interstate 64 East on the date of the incident and failed to do so properly. The sum of \$340.50 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$340.50

AMOUNT AWARDED: \$340.50

**CC-21-0154 JOHN ARTHUR v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 25, 2021, the Claimant was driving his 2010 Mercedes Benz GLK350 on West Virginia Route 34 South in Winfield, Putnam County when his vehicle struck a series of large potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$669.36; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of West Virginia Route 34 South and failed to do so properly on the date of the incident. The sum of \$669.36 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$669.36

AMOUNT AWARDED: \$669.36

**CC-21-0089 CLINTON E. ASHLEY AND KATHY ASHLEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 8, 2021, the Claimant was driving his 2014 Toyota Camry on West Virginia Route 218 East between Idamay and Kellytown in Marion County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$370.95; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 218 East and failed to do so properly on the date of the incident. The sum of \$370.95 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$370.95

AMOUNT AWARDED: \$370.95

**CC-21-0018 GREG AUCREMANNE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 10, 2020, the Claimant was driving his 2019 Chevrolet Silverado on US Route 19 in Westover, Monongalia County when his vehicle struck a large section of broken pavement which created a large rut near the edge of the traveling lane of the roadway. The Claimant's vehicle sustained damages in the amount of \$758.62; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 19 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$758.62

AMOUNT AWARDED: \$758.62

**CC-21-0568 BARRY W. BAILEY v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on April 10, 2021, he was driving his 2010 Hyundai Santa Fe on West Virginia Route 71 in Rock, Mercer County when his vehicle

struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$2,390.00; his collision insurance required a deductible of \$2,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 71 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$2,000.00.

AMOUNT CLAIMED: \$2,390.00

AMOUNT AWARDED: \$2,000.00

### **CC-21-0195 GARY BAILEY v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on March 2, 2011, he was driving his 2009 Chevrolet Silverado on Appalachian Highway in Pineville, Wyoming County when his vehicle struck a deep sinkhole in the roadway. The Claimant submitted invoices in the amount of \$1,773.35; his collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Appalachian Highway on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$1,773.35

AMOUNT AWARDED: \$500.00

### **CC-21-0001 MELISSA BAKER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On November 23, 2020, the Claimant was driving her 2017 Chevrolet Suburban on Lucky Day Lane in Ona, Cabell County when her vehicle struck the protruding base of a broken road sign at the edge of the roadway. The Claimant's vehicle sustained damages in the amount of \$231.65; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Lucky Day Lane and failed to do so properly on the date of the incident. The sum of \$231.65 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$231.65

AMOUNT AWARDED: \$231.65

### **CC-21-0091 KIMBERLY A. BALDWIN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 26, 2021, the Claimant was driving her 2020 Kia Soul on County Route 19/5, Prosperity Road, in Prosperity, Raleigh County when her vehicle struck a large section of pavement that had collapsed and fallen away from the traveling lane of the roadway. The Claimant's vehicle sustained damages in the amount of \$986.33; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the



maintenance of County Route 19/5, Prosperity Road, and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$986.33

AMOUNT AWARDED: \$500.00

**CC-21-0094 JARED BARGER AND WENDY BARGER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 8, 2021, the Claimant was driving his 2015 Ford Mustang on West Virginia Route 71 in Rock, Mercer County when his vehicle struck a large rock that had fallen from the adjacent hillside and landed in the traveling portion of the roadway. The Claimants' vehicle sustained damages in the amount of \$777.74; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 71 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$777.74

AMOUNT AWARDED: \$500.00

**CC-21-0570 CHRISTOPHER L. BARNETT AND MELISSA J. BARNETT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 13, 2021, the Claimant was driving her 2020 Nissan Altima on Interstate 64 East in South Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$249.99; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$249.99 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$249.99

AMOUNT AWARDED: \$249.99

**CC-21-0249 RODNEY DEE BARTLETT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 16, 2021, the Claimant was driving his 2018 Chevrolet Silverado on Graham Road in Rachel, Marion County, when his vehicle struck a series of large potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$779.98; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Graham Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$779.98

AMOUNT AWARDED: \$500.00

**CC-21-0259 JACKIE BATES v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 1, 2021, the Claimant was driving her 2018 Ford EcoSport on Interstate 77 South near Mineral Wells, Wood County, when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$489.72; her collision insurance required a deductible of \$500.00. The Respondent was

responsible for the maintenance of Interstate 77 South and failed to do so properly on the date of the incident. The sum of \$489.72 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$489.72

AMOUNT AWARDED: \$489.72

**CC-21-0467 JEFFREY EARL BENNETT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 26, 2021, the Claimant was driving his 2009 Honda Civic EX on West Virginia Route 20 in Hinton, Summers County when his vehicle struck several large rocks in the roadway that had fallen from the adjacent hillside. The Claimant's vehicle sustained damages in the amount of \$472.31; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 20 and failed to do so properly on the date of the incident. The sum of \$472.31 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$472.31

AMOUNT AWARDED: \$472.31

**CC-20-0673 DARLA BENTLEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 22, 2020, the Claimant was driving her 2013 Toyota Corolla S on Adams Avenue in Huntington, Cabell County when her vehicle struck a section of pavement that had crumbled and fallen away at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$155.99; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Adams Avenue and failed to do so properly on the date of the incident. The sum of \$155.99 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$155.99

AMOUNT AWARDED: \$155.99

**CC-21-0276 HARRY V. BERTRAM v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 24, 2021, the Claimant was driving his 2014 Ford Fiesta on West Virginia Route 100 in Madsville, Monongalia County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$100.34; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 100 and failed to do so properly on the date of the incident. The sum of \$100.34 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$100.34

AMOUNT AWARDED: \$100.34

**CC-19-0481 KELLY R. BIGLEY AND DOUGLAS BIGLEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On November 11, 2018, the Claimant was driving her 2013 Chevrolet Suburban on West Virginia Route 44 between Monaville and Logan, Logan County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$2,500.00; their collision insurance required a deductible of \$500.00.

The Respondent was responsible for the maintenance of West Virginia Route 44 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$2,500.00

AMOUNT AWARDED: \$500.00

**CC-20-0523 ANTHONY BLAINE BISHOP AND CHERIE HOWELL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 1, 2020, the Claimant was driving his 2001 Ford Ranger on Interstate 79 South near Wallback, Roane County when the vehicle struck a dislodged road reflector that was located in the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$257.11; they did not carry collision insurance on their vehicle. The Respondent was responsible for the maintenance of Interstate 79 South and failed to do so properly on the date of the incident. The sum of \$257.11 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$257.11

AMOUNT AWARDED: \$257.11

**CC-21-0689 SHARON J. BLAKE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 13, 2021, the Claimant was driving her 2017 Lexus RX350 on West Virginia Route 25 between Thurmond and Glen Jean, Fayette County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$249.05; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of West Virginia Route 25 and failed to do so properly on the date of the incident. The sum of \$249.05 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$249.05

AMOUNT AWARDED: \$249.05

**CC-21-0448 CHARLES D. BLAND AND THELMA J. BLAND v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2014 Chevrolet Equinox on West Virginia Route 76 near Galloway, Barbour County on April 28, 2021, when a large limb broke off a tree growing in the Respondent's right of way and struck the windshield and front end of the Claimant's vehicle. The Claimants' vehicle sustained damages in the amount of \$3,225.22; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 76 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$3,225.22

AMOUNT AWARDED: \$500.00

**CC-21-0214 DAVID B. BLANKENSHIP v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 11, 2021, the Claimant was operating his 2002 Harley-Davidson FXDWG on US Route 60 near Rainelle, Greenbrier County, when his vehicle

struck a cut-out section of pavement situated in the traveling lane of the roadway. The Claimant's vehicle sustained damages in the amount of \$430.00; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 and failed to do so properly on the date of the incident. The sum of \$ is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$430.00

AMOUNT AWARDED: \$430.00

**CC-21-0068 CHRISTOPHER BLOUNT AND AMY BLOUNT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On December 26, 2020, the Claimant was driving his 2014 Honda Odyssey on Interstate 79 North near Lost Creek, Harrison County when his vehicle struck a large piece of asphalt protruding from the traveling surface of the roadway. The Claimants' vehicle sustained damages in the amount of \$644.91; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 79 North and failed to do so properly on the date of the incident. The sum of \$644.91 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$644.91

AMOUNT AWARDED: \$644.91

**CC-21-0138 CHARLES BOBELA v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 2, 2021, the Claimant was driving his 2017 Ford F150 XL on US Route 119 near Grafton, Taylor County when his vehicle struck a fallen tree extending over both lanes of travel of the roadway, completely blocking all traffic. The Claimant's vehicle sustained damages in the amount of \$2,096.65; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of US Route 119 North and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$2,096.65

AMOUNT AWARDED: \$250.00

**CC-21-0340 BENJAMIN T. BOLEN v DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on April 2, 2021, he was driving his 2020 Mazda CX30 on US Route 60 near Glasgow, Kanawha County when his vehicle struck a large pothole in the roadway. The impact with the pothole damaged one tire; however, the Claimant opted to have all four tires replaced at the same time. The Claimant submitted invoices in the amount of \$552.12; his collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it should only be liable for the cost of replacing the tire that was actually damaged by the pothole.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of US Route 60 on the date of the Claimant's incident and that such negligence was the proximate

cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$328.63.

AMOUNT CLAIMED: \$552.12

AMOUNT AWARDED: \$328.63

**CC-21-0437 JOHN BONNER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2014 Polaris XP900 on West Virginia Route 39 in Parsons, Tucker County on October 17, 2020 when his vehicle struck a the broken off post of an abandoned metal road sign situated at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,422.46; he did not carry collision insurance on his vehicle. The Respondent was responsible for the maintenance of West Virginia Route 39 on the date of the incident and failed to do so properly. The sum of \$1,422.46 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,422.46

AMOUNT AWARDED: \$1,422.46

**CC-20-0054 CURTIS BRADLEY BOWEN v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent failed to properly compensate him for land and further that the actions of the Respondent were the proximate cause of damage to his property. At the hearing, the Claimant testified that he is the owner of property situated on 16<sup>th</sup> Street Road in Huntington, Cabell County. The Respondent purchased a portion of his property as part of a road widening and reconfiguration project. The Claimant testified that blasting and excavation were performed as part of this project; he alleged that these activities created a slip on a section of his property, an area of approximately 150 square feet in size. This operated to decrease the value and usefulness of the remaining property. He further testified that there is now a steep drop-off at the site of the slip which creates a safety hazard. He claimed is unable to further develop this property as the slip is now a liability. The Claimant placed a value of \$86,000.00 on the property based on the price he was paid for the initial section of property. The appraisal that was prepared at the time of this initial sale indicated that, based on the nature of the property, some sections were valued at a higher rate than others. The average rate of compensation for the initial piece of the property was twenty-five (25) cents per square foot. The Claimant did not present any witnesses to testify as to the necessary repairs to correct the slip or as to the current value of the property. The Claimant sought to have the Respondent either repair the slip or swap property tracts and receive additional property in lieu of any further payments.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the relief sought by the Claimant was not a viable solution as the Respondent had a planned use for the property that the Claimant sought. The Respondent further asserted that it was not responsible for the alleged slip damage. The Respondent's engineer testified that prior to the beginning of any road construction, the gas line in the vicinity of the Claimant's property had to be relocated, which most likely compromised the stability of the slope near the Claimant's property. Moreover, the soil in this area is prone to slips based upon the composition of the soil. The Respondent's realty manager testified that the Respondent prepared an appraisal of the Claimant's property. This encompassed a rate of twenty-five (25) cents per square foot; the appraisal listed the value of the property as \$77,600.00. The Claimant and the

Respondent negotiated the sale; the Claimant ultimately accepted \$85,000.00 for the sale of the property. The appraisal report identified that existence of some damage to the property prior to the preparation of the appraisal. Included in the purchase price was residual damages due to the reduced size of the property and the diminished use of the property. During the hearing, the Respondent's offered the Claimant the sum of \$2,835.00 based on the appraisal report; the Claimant rejected this offer.

The Legislative Claims Commission found that it did not have the statutory authority to compel a state agency to act or enforce specific performance and accordingly could only recommend a monetary payment to the Claimant. The Claims Commission further found that the Claimant did not proffer any evidence, testimony or documentation to support the monetary award he sought; he did not present any witnesses in support of his claim. As such, the Claims Commission found that the appraisal submitted by the Respondent stood as uncontroverted evidence in the record. The Claims Commission found that the Claimant failed to prove that the value of his property exceeded the value assessed by the Respondent and the evidence before the Claims Commission was insufficient to sustain any award above the amount that was offered to the Claimant by the Respondent during the course of the hearing. The Claims Commission recommended an award to the Claimant in the sum of \$2,835.00.

AMOUNT CLAIMED: \$86,000.00

AMOUNT AWARDED: \$2,835.00

#### **CC-21-0407 CLAYTON C. BRANDLI, JR. v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2014 Nissan Rogue with an attached trailer on Bunners Ridge Road in Fairmont, Marion County on March 3, 2021 when his vehicle struck a series of potholes in the traveling portion of the roadway. On April 1, 2021, the Claimant was again driving his 2014 Nissan Rogue on Bunners Ridge Road in Fairmont, Marion County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$1,446.20; his collision insurance required a deductible of \$0.00. The Respondent was responsible for the maintenance of Bunners Ridge Road on the dates of these incidents and failed to do so properly. The parties agreed that the sum of \$756.31 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,446.20

AMOUNT AWARDED: \$756.31

#### **CC-21-0298 JAMEA BRINCKMAN AND KAYLIE BRINCKMAN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2004 Saturn on US Route 119, Elk River Road, near Clendenin, Kanawha County on March 30, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$819.09; they did not carry collision insurance on their vehicle. The Respondent was responsible for the maintenance of US Route 119, Elk River Road, and failed to do so properly on the date of the incident. The sum of \$819.09 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$819.09

AMOUNT AWARDED: \$819.09

**CC-21-0251 RITA BROOKS AND SAMUEL BROOKS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 6, 2021, the Claimant was driving her 2017 Mercedes Benz E300 on the 35<sup>th</sup> Street Bridge in Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$353.10; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of the 35<sup>th</sup> Street Bridge and failed to do so properly on the date of the incident. The sum of \$353.10 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$353.10

AMOUNT AWARDED: \$353.10

**CC-21-0253 RITA BROOKS AND SAMUEL BROOKS v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 Mercedes Benz E300 on the 35<sup>th</sup> Street Bridge in Charleston, Kanawha County on March 22, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$362.72; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of the 35<sup>th</sup> Street Bridge on the date of the incident and failed to do so properly. The sum of \$362.72 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$362.72

AMOUNT AWARDED: \$362.72

**CC-20-0594 JAMES E. BROWN, SR. v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on August 26, 2020, he was driving his 2014 Ford Mustang on West Virginia Route 622 near Sissonville, Kanawha County when his vehicle struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$1,595.00; his collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 622 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$1,595.00

AMOUNT AWARDED: \$500.00

**CC-20-0616 LOLA A. BROWN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2019 Lincoln Nautilus on County Route 6, Trace Fork Road, in Chapmanville, Logan County, on September 9, 2020 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,512.19; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of County Route 6, Trace Fork

Road, on the date of the incident and failed to do so properly. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,512.19

AMOUNT AWARDED: \$1,000.00

**CC-20-0683 WESLEY E. BROWN, SR. v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 15, 2020, the Claimant was driving his 2013 Toyota Tundra on Emily Drive in Clarksburg, Harrison County when his vehicle struck a large storm drain situated at the edge of the traveling lane of the roadway. The Claimant's vehicle sustained damages in the amount of \$963.00; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Emily Drive and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$963.00

AMOUNT AWARDED: \$500.00

**CC-21-0055 ROBERT BROWNING, JR. AND JO ELLEN BROWNING v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 26, 2021, the Claimant was driving his 2016 Honda Civic Touring on Robert C. Byrd Drive in Beckley, Raleigh County when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$685.24; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Robert C. Byrd Drive and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$685.24

AMOUNT AWARDED: \$500.00

**CC-19-1145 ALLEN BUCKLEY, JEFF BUCKLEY AND GENE BUCKLEY v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. At the hearing, the Claimant testified that they experienced flooding on their property following the widening of US Route 50 in Romney, Hampshire County. Water flowed out of the culvert on Bill Taylor Road, onto their property and into the basement of the house, causing significant damage. The Claimant testified that he notified the county supervisor of the flooding issues; the supervisor conducted a site visit. The Respondent's work crew then dug a ditch to divert water away from the residence and discovered that a terra cotta pipe on the Claimants' property was attached to the Respondent's culvert had been capped off. While digging the ditch, the terra cotta pipe was damaged and water began gushing out of the pipe. The Claimant testified that the work crew refilled the ditch and covered up the exposed pipes; any further work stopped. The county supervisor assured that Claimant that a work crew would return and fix the pipe; however, no work crew ever returned and the pipe was never fixed. The Claimants' property continued to sustain flooding and water damage. Approximately, nine months later, another of the Respondent's employees contacted the Claimants to inspect the roadway and associated right of way for purposes of a construction project. This employee observed that



capped off pipe and advised the Claimants that a work crew would come out to correct the situation. Again, no work was ever done. Shortly after the Claimants filed this Notice of Claim, a work crew from the county headquarters arrived to correct the broken terra cotta pipe; they also dug up the old pipes, laid new pipes and connected the drainage systems. The Claimant testified that since the corrective action was taken in the fall of 2019, they have not had any flooding issues. The Claimants' expert contractor testified that significant remedial work needed to be done on the residence; there was an extensive presence of mold in the basement due to the length of water flowing into the residence. The Claimants submitted invoices in the amount of \$56,565.00 for mold remediation to the residence and proper repairs to the house. At the time of the hearing, no repair work had been undertaken and standing water in the basement was visible upon inspection of the property.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimants' claim should be barred by the two year statute of limitations inasmuch as the first complaint of flooding occurred in 2016 and their claim was not filed until August 7, 2019. The Respondent further asserted that it had responded to the Claimants' concerns in a timely manner.

The Legislative Claims Commission found that the Claimants' Notice of Claim was timely filed with the Clerk of the Claims Commission. The Claims Commission further found that the Respondent was notified of the flooding issues and failed to take corrective action within a reasonable time and as such, it breached the duties it owed to the Claimants. The Claims Commission further found that the Respondent was negligent in its maintenance of Bill Taylor Road on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission further found that, by waiting for more than two years until the conclusion of this claim to undertake repairs to the house, the Claimants failed to mitigate their damages. The Claims Commission recommended an award to the Claimants in the sum of \$45,252.00.

AMOUNT CLAIMED: \$56,565.00

AMOUNT AWARDED: \$45,252.00

#### **CC-20-0359 EMERSON BUNGARD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 29, 2020, the Claimant was driving his 2013 Ford F-150 on Little Stillwell Road in Murphytown, Wood County when his vehicle struck the sharp post of an abandoned and broken road sign situated at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$175.01; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Little Stillwell Road and failed to do so properly on the date of the incident. The sum of \$175.01 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$175.01

AMOUNT AWARDED: \$175.01

#### **CC-20-0625 JESSICA BURACKER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 Honda Pilot on County Route 30/2, Tinsman Lane, in Martinsburg, Berkeley County on October 3, 2020 when her vehicle

struck a rock situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$419.40; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of County Route 30/2, Tinsman Lane, on the date of the incident and failed to do so properly. The sum of \$419.40 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$419.40

AMOUNT AWARDED: \$419.40

**CC-21-0220 DOVEL E. BURCHAM AND STEPHANIE D. BURCHAM v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 1, 2021, the Claimant was driving his 2015 Toyota Corolla on Interstate 64 East near Milton, Cabell County when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$297.46; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$297.46 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$297.46

AMOUNT AWARDED: \$297.46

**CC-21-0460 MARK BURDETTE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 18, 2021, the Claimant was driving his 2010 Toyota Camry on Dupont Road in Westover, Monongalia County when his vehicle struck a large hole at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$4,413.78; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Dupont Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$4,413.78

AMOUNT AWARDED: \$500.00

**CC-21-0489 ANN E. BURKHAMMER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 18, 2021, the Claimant was driving her 2017 Chrysler 300 on US Route 19 near Gore, Harrison County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$187.25; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 19 and failed to do so properly on the date of the incident. The sum of \$187.25 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$187.25

AMOUNT AWARDED: \$187.25

**CC-21-0707 CABELL COUNTY EMS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 9, 2021, the Claimant's employee was driving its 2021 Ford E350 ambulance on Prices Creek Road in Huntington, Cabell County on its way to an emergency call when the vehicle struck a large tree trunk that had fallen from the adjacent hillside and extended into the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$2,709.93; its collision insurance required a deductible of \$2,500.00. The Respondent was responsible for the maintenance of Prices Creek Road and failed to do so properly on the date of the incident. The sum of \$2,500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$2,709.93

AMOUNT AWARDED: \$2,500.00

**CC-21-0009 TRACY CALLOWAY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On November 2, 2020, the Claimant was driving his 2019 Ford F-250 on Poplar Gap Road in Glen Fork, Wyoming County when his vehicle struck a large, low-hanging branch of a tree that extended into the traveling lane of the roadway. The Claimant's vehicle sustained damages in the amount of \$529.63; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Poplar Gap Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$529.63

AMOUNT AWARDED: \$500.00

**CC-21-0442 CURTIS CARROLL v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Kia Forte in the intersection of 28<sup>th</sup> Street and 8<sup>th</sup> Avenue in Huntington, Cabell County on March 21, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$520.00; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of 28<sup>th</sup> Street and 8<sup>th</sup> Avenue on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$520.00

AMOUNT AWARDED: \$500.00

**CC-21-0493 CRAIG D. CARTER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 13, 2021, the Claimant was driving his 2013 Mercedes SL550 on Goff Mountain Road in Cross Lanes, Kanawha County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$985.70; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Goff Mountain Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$985.70

AMOUNT AWARDED: \$500.00

**CC-21-0341 EVAN CAVALLO v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2021 Mazda 6 Grand Touring on Interstate 79 North near Pleasant Valley, Marion County on March 25, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$817.59; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 North on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$817.59

AMOUNT AWARDED: \$500.00

**CC-21-0657 KATHY CHADWELL AND JERRY CHADWELL v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2018 Chevrolet Malibu on the 29<sup>th</sup> Street exit ramp of US Route 60 near Huntington, Cabell County on July 27, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$215.34; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 and its exits and failed to do so properly on the date of the incident. The sum of \$215.34 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$215.34

AMOUNT AWARDED: \$215.34

**CC-21-0465 TIFFANY CHANDLER AND BRANDON CHANDLER v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on March 31, 2021, she was driving her 2013 Ford Edge on US Route 119 near Clendenin, Kanawha County when her vehicle struck a large pothole in the traveling portion of the roadway. The impact of striking the pothole damaged two rims. The Claimant testified that upon the advice of their mechanic, they also replaced all four tires on their vehicle in order to maintain the condition of the new rims. The Claimants submitted invoices in the amount of \$1,797.00; their collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of US Route 119 on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimants in the sum of \$972.00.

AMOUNT CLAIMED: \$1,797.00

AMOUNT AWARDED: \$972.00

**CC-21-0333 HEATHER NICOLE CHEWNING v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2019 Buick Encore on County Route 9/3, Tug Creek Connection, in Hinton, Summers County on March 2, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,233.64; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of County Route 9/3, Tug Creek Connection, on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,233.64

AMOUNT AWARDED: \$500.00

**CC-21-0060 DOVIE CHRISTIAN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 Chevrolet Malibu on West Virginia Route 16, Robert C. Byrd Drive, in Beckley, Raleigh County on January 27, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$156.64; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 16, Robert C. Byrd Drive, on the date of the incident and failed to do so properly. The sum of \$156.64 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$156.64

AMOUNT AWARDED: \$156.64

**CC-21-0563 LARRY CLAY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2020 Chevrolet Malibu on County Route 13, Johns Creek Road, in Milton, Cabell County on June 5, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,360.06; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of County Route 13, Johns Creek Road, on the date of the incident and failed to do so properly. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,360.06

AMOUNT AWARDED: \$1,000.00

**CC-21-0017 MELISSA G. CLEVINGER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2012 Mitsubishi Galant on West Virginia Route 622, Goff Mountain Road, between Institute and Nitro, Kanawha County on August 8, 2019 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$477.66; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 622, Goff Mountain Road, on the date of the incident and failed to do so properly. The sum of \$477.66 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$477.66

AMOUNT AWARDED: \$477.66

**CC-21-0083 DAVID W. CLIPP AND MARINA J. CLIPP v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2007 Dodge Caliber on County Route 34, Nadenbousch Lane, in Martinsburg, Berkeley County on January 24, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$174.74; they did not carry collision insurance on their vehicle. The Respondent was responsible for the maintenance of County Route 34, Nadenbousch Lane, and failed to do so properly on the date of the incident. The sum of \$174.74 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$174.74

AMOUNT AWARDED: \$174.74

**CC-21-0720 WILLIAM P. COBB, JR. v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2021 Toyota Camry on 40<sup>th</sup> Street in Nitro, Kanawha County on August 10, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$225.78; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of 40<sup>th</sup> Street on the date of the incident and failed to do so properly. The sum of \$225.78 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$225.78

AMOUNT AWARDED: \$225.78

**CC-21-0459 MICHAEL COCHRAN AND DEBRA COCHRAN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2019 Jeep Cherokee on US Route 52 Bypass in Welch, McDowell County on December 15, 2020 when the vehicle struck a large rock that had fallen from the adjacent hillside into the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$2,237.59; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 52 Bypass and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$2,237.59

AMOUNT AWARDED: \$500.00

**CC-20-0576 JACQUELINE PAIGE COFFMAN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2016 Nissan Altima on Interstate 64 West near St. Albans, Kanawha County on August 4, 2020 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$254.40; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 West on the date of the incident and failed to do so properly. The sum of \$254.40 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$254.40

AMOUNT AWARDED: \$254.40

**CC-21-0355 COLLISION APPRAISAL REINSPECTION SERVICE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant's employee was driving its 2012 Volvo S60 on Coal River Road in St. Albans, Kanawha County on September 25, 2020 when its vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$497.54; its collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Coal River Road on the date of the incident and failed to do so properly. The sum of \$497.54 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$497.54

AMOUNT AWARDED: \$497.54

**CC-20-0727 LEAH COMER AND STEPHEN COMER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2020 Ford Escape on West Virginia Route 20 in Hinton, Summers County on November 24, 2020 when her vehicle struck a large rock that had fallen from the rocky hillside adjacent to the roadway and landed in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,047.83; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of West Virginia Route 20 and failed to do so properly on the date of the incident. The parties agreed that the sum of \$603.76 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,047.83

AMOUNT AWARDED: \$603.76

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**CC-21-0488 ELLINE CONLEY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2020 Toyota Camry on Johns Creek Road in Milton, Cabell County on May 20, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$322.94; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Johns Creek Road on the date of the incident and failed to do so properly. The sum of \$322.94 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$322.94

AMOUNT AWARDED: \$322.94

**CC-21-0632 MELISSA D. COOK v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2001 Dodge Stratus RT on West Virginia Route 12 between Ballard and Peterstown, Monroe County on July 6, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$924.43; she did not carry collision insurance on her vehicle. The Respondent was responsible for the maintenance of West Virginia Route 12 on the date of the incident and failed to do so properly. The sum of \$924.43 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$924.43

AMOUNT AWARDED: \$924.43

**CC-21-0472 JORDAN ANDREW COX v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 24, 2021, the Claimant was driving his 2019 Chevrolet Camaro 255ILE on Connell Road near Charleston, Kanawha County when his vehicle struck a large section of patched and cracked pavement in the roadway. The Claimant's vehicle sustained damages in the amount of \$556.63; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Connell Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$556.63

AMOUNT AWARDED: \$500.00

**CC-21-0644 SHAWN DAVID CRIST v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on June 13, 2021, a tree located across the street from his residence fell and landed on his recently purchased 2004 Ford Taurus. He further testified that the tree, as well as other trees growing along the roadway, was overgrown and extended into the traveling lanes of Church Hill Road in Handley, Kanawha County. Following this incident, the Claimant called the Respondent's local office to report the fallen tree; however, his neighbors ultimately removed the tree trunk and branches from the roadway so traffic could use the road. The Claimant testified that the large number of trees overhanging the road prevents first responders and emergency vehicles responding to emergencies on Church Hill Road in a timely and expeditious manner. The Claimant did not carry collision insurance on his vehicle but his insurance company deemed the vehicle a total loss. The Claimant testified that he had purchased his vehicle for \$3,417.50 approximately a month before this incident.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it was only responsible for the paved portion of Church Hill Road and not the areas where this tree and others were situated.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Church Hill Road in allowing the trees to extend into the roadway on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$2,831.00.

AMOUNT CLAIMED: \$3,417.50

AMOUNT AWARDED: \$2,831.00

**CC-21-0133 ROBERT L. CROSBY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 21, 2020, the Claimant was driving his 2015 Chevrolet Silverado on West Virginia Route 10 near Barboursville, Cabell County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$526.44; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 10 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$526.44

AMOUNT AWARDED: \$500.00



**CC-20-0731 MICHELE CROW v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2021 Honda Passport on West Virginia Route 2 in Wellsburg, Brooke County on November 30, 2020 when her vehicle struck several large rocks situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$292.12; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 2 on the date of the incident and failed to do so properly. The sum of \$292.12 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$292.12

AMOUNT AWARDED: \$292.12

**CC-21-0428 ALEXANDER CRUZZAVALA v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2012 BMW 528i on Beechurst Avenue in Morgantown, Monongalia County on March 19, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$244.95; his collision insurance required a deductible of \$300.00. The Respondent was responsible for the maintenance of Beechurst Avenue on the date of the incident and failed to do so properly. The sum of \$244.95 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$244.95

AMOUNT AWARDED: \$244.95

**CC-21-0008 RONNIE K. CUTLIP v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 5, 2020, the Claimant was driving his 2004 Chevrolet Impala on Little Birch Mountain Road in Little Birch, Braxton County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$1,843.91; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Little Birch Mountain Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,843.91

AMOUNT AWARDED: \$500.00

**CC-21-0737 MORRI DABNEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 18, 2021, the Claimant was driving her 2019 Subaru Impreza on West Virginia Route 2 in Point Pleasant, Mason County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$490.19; her collision insurance required a deductible of \$2,000.00. The Respondent was responsible for the maintenance of West Virginia Route 2 and failed to do so properly on the date of the incident. The sum of \$490.19 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$490.19

AMOUNT AWARDED: \$490.19

**CC-19-1259 CHRISTOPHER F. DANIELS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 2, 2019, the Claimant's employee was driving the Claimant's 2012 Freightliner M2-106 truck on Core Road in Parkersburg, Wood County when the vehicle struck a low-hanging branch of a tree that extended into the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$16,377.33. The Respondent was responsible for the maintenance of Core Road and failed to do so properly on the date of the incident. The parties agreed that the sum of \$14,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$16,377.33

AMOUNT AWARDED: \$14,000.00

**CC-21-0047 PATRICIA M. D'AURORA v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 13, 2021, the Claimant was driving her 2020 Nissan Altima SR on US Route 22 West in Weirton, Brooke County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$174.82; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 22 West and failed to do so properly on the date of the incident. The sum of \$174.82 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$174.82

AMOUNT AWARDED: \$174.82

**CC-20-0613 DIANA DAVIS v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2018 Lincoln MKC on Clover Run Road in Montrose, Randolph County on September 26, 2020, when her vehicle struck a large cinder block situated at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$317.04; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Clover Run Road on the date of the incident and failed to do so properly. The sum of \$317.04 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$317.04

AMOUNT AWARDED: \$317.04

**CC-19-0287 REX REDFORD DEAL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On or about July 17, 2013, the Claimant was operating his four-wheeler on Pigeon Roost Road near Kenna, Jackson County when his vehicle struck a defect within the Respondent's right of way. The Claimant lost control of his vehicle, crashed and sustained injuries. The Respondent was responsible for the maintenance of Pigeon Roost Road. The Respondent denied any negligence but acknowledged that the Claimant suffered injuries requiring medical treatment. The parties agreed that the settlement of this claim was mutually advantageous to both parties and agreed that the sum of \$10,000.00 was a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$106,525.36

AMOUNT AWARDED: \$10,000.00

**CC-21-0490 JEREMY DEITZ AND REBEL DEITZ v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 GMC Terrain on US Route 19 in Summersville, Nicholas County on May 18, 2021 when the vehicle struck a large road reflector that had become dislodged from the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$282.17; their collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of US Route 19 and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$282.17

AMOUNT AWARDED: \$250.00

**CC-21-0207 ANTHONY DOMICO AND LINDSEY DOMICO v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 16, 2021, the Claimant was driving her 2013 Dodge Grand Caravan on Interstate 79 South near Morgantown, Monongalia County when her vehicle struck a large piece of pavement that had come loose from a pothole and then struck the pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$149.80; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 South and failed to do so properly on the date of the incident. The sum of \$149.80 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$149.80

AMOUNT AWARDED: \$149.80

**CC-21-0346 REX DONAHUE, JR. v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2013 Mercedes CLS550 on US Route 60 East in Ona, Cabell County on April 1, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$260.12; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 on the date of the incident and failed to do so properly. The sum of \$260.12 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$260.12

AMOUNT AWARDED: \$260.12

**CC-21-0021 CHARLES DONLEY II v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 1979 GMC Sierra on US Route 250 in Limestone, Marshall County on December 27, 2020 when his vehicle struck the broken and exposed end of an abandoned road sign situated at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$215.88; he did not carry collision insurance on his vehicle. The Respondent was responsible for the maintenance of US Route 250 on the date of the incident and failed to do so properly. The sum of \$215.88 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$215.88

AMOUNT AWARDED: \$215.88

**CC-21-0093 PEARL A. DOWNING v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her residential property. At the hearing, the Claimant testified that in August, 2020, the Respondent installed a retaining wall at the intersection of West Virginia Route 259, Carpers Pike and Milk Road; the retaining wall abutted her property on West Virginia Route 259, Carpers Pike. Prior to the construction of the retaining wall, the property had a gentle slope which the Claimant maintained. As a result of the installation of the wall, the slope of the property was cut away and replaced by a straight up and down cinder block wall, which created a steep drop-off. The Claimant submitted photographic evidence depicting the height of the wall to be taller than the Claimant. The Claimant believed that the installation of this wall encroached upon her property and created a dangerous safety hazard to her and anyone on her property. She further testified that she was unable to properly maintain her property since the installation of the wall since there is a danger of the Claimant or another person possibly falling over the edge of the wall and becoming injured on the large rocks situated at the base of the wall. The Claimant submitted invoices in the amount of \$3,350.00 for the installation of a fence at the edge of her property to allow the Claimant the full use of her property and maintain the safety of the Claimant and others who are on her property.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the retaining wall was necessary to improve sight distance at the intersection. The Respondent further asserted that the retaining wall had been constructed within its right of way.

The Legislative Claims Commission found that the Respondent had breached its duty to the Claimant to cause no harm to the Claimant and her property with the installation of the retaining wall. The Claims Commission further found that the installation of the retaining wall and the construction of a steep drop-off created a dangerous safety hazard and resulted in the Claimant's loss of use of a portion of her property. The Claims Commission recommended an award to the Claimant in the sum of \$3,350.00.

AMOUNT CLAIMED: \$3,350.00

AMOUNT AWARDED: \$3,350.00

**CC-21-0051 JOSHUA T. DUFF AND KAREY JONES v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Ford Fiesta on Interstate 64 East in Dunbar, Kanawha County on January 14, 2021 when the vehicle struck a large metal pipe that was situated in the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$351.20; their collision insurance required a deductible of \$100.00. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$100.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$351.20

AMOUNT AWARDED: \$100.00

**CC-21-0280 JERRY WAYNE DUNBAR II AND CRISTIE R. DUNBAR v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 19, 2021, the Claimant was driving his 2020 Hyundai Sonata on US Route 60 in West Huntington, Cabell County, when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$475.88; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of US Route 60 and failed to do so properly on the date of the incident. The sum of \$475.88 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$475.88

AMOUNT AWARDED: \$475.88

**CC-20-0478 DEBORAH C. DUNLAP v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2000 Chevrolet Lumina on Bell Creek Road near Pond Gap, Kanawha County on June 2, 2020 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$616.00; she did not carry collision insurance on her vehicle. The Respondent was responsible for the maintenance of Bell Creek Road on the date of the incident and failed to do so properly. The sum of \$616.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$616.00

AMOUNT AWARDED: \$616.00

**CC-20-0666 ERNEST L. DUNLAP v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Ford Mustang GT on Scott Depot Road in Hurricane, Putnam County on September 25, 2020 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,150.61; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Scott Depot Road on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,150.61

AMOUNT AWARDED: \$500.00

**CC-20-0619 JOHN DURKEE, SR. AND NANCY DURKEE v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that he was driving his 2019 Chevrolet Silverado on West Virginia Route 4 near Flatwoods, Braxton County on September 12, 2020. He was traveling behind a paint truck. When he reached his destination, he discovered that there were large swaths of white paint on the side of his vehicle. The Claimants alleged that the paint trucks belonging to the Respondent's contractor were negligent and sprayed paint on his vehicle. The Claimants submitted invoices in the amount of \$698.00; their collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 4 on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$698.00

AMOUNT AWARDED: \$500.00

**CC-21-0190 STEPHEN DYE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2018 Toyota Camry on West Virginia Route 62 in Buffalo, Putnam County on February 25, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$313.90; his collision insurance required a deductible of \$300.00. The Respondent was responsible for the maintenance of West Virginia Route 62 on the date of the incident and failed to do so properly. The sum of \$300.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$313.90

AMOUNT AWARDED: \$300.00

**CC-21-0193 STEPHEN DYE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 17, 2021, the Claimant was driving his 2018 Toyota Camry on West Virginia Route 817 in Fraziers Bottom, Putnam County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$316.59; his collision insurance required a deductible of \$300.00. The Respondent was responsible for the maintenance of West Virginia Route 817 and failed to do so properly on the date of the incident. The sum of \$300.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$316.59

AMOUNT AWARDED: \$300.00

**CC-21-0590 MICHAEL EAST v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 30, 2021, the Claimant was hauling a 2017 Leonard flat trailer behind his vehicle on County Route 11 in Montcalm, Mercer County when his vehicle and trailer struck a series of large potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$234.72; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of County Route 11 and failed to do so properly on the date of the incident. The sum of \$234.72 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$234.72

AMOUNT AWARDED: \$234.72

**CC-20-0752 TERRY E. ECHARD v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2012 Ford F150 on West Virginia Route 971 near Elk Lick, Wyoming County on December 9, 2020 when his vehicle struck a large, low-hanging branch of a tree that extended into the traveling portion of the roadway. The

Claimant's vehicle sustained damages in the amount of \$1,000.57; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 971 on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,000.57

AMOUNT AWARDED: \$500.00

#### **CC-20-0734 MICHAEL A. EFAW AND JULIE EFAW v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on March 3, 2020, he was driving his 1999 Honda Accord on West Virginia Route 2 near Paden City, Wetzel County when his vehicle struck a large rock situated in the traveling portion of the roadway. He further testified that this was an area known for rock falls; he had not observed any signs warning of falling rocks. The Claimants submitted invoices in the amount of \$1,165.67; they did not carry collision insurance on their vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 2 on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimants in the sum of \$1,165.67.

AMOUNT CLAIMED: \$1,165.67

AMOUNT AWARDED: \$1,165.67

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#### **CC-21-0461 AMANDA EJIMOFOR v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 26, 2021, the Claimant's son was driving her 2006 Audi A4 Quattro on Deckers Creek Boulevard in Morgantown, Monongalia County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$749.37; she did not carry collision insurance on her vehicle. The Respondent was responsible for the maintenance of Deckers Creek Boulevard and failed to do so properly on the date of the incident. The sum of \$749.37 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$749.37

AMOUNT AWARDED: \$749.37

#### **CC-21-0128 KENNETH ELBON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on February 22, 2021, he was driving his 2020 Ford Edge on US Route 250 South near Huttonsville, Randolph County when his vehicle struck a large rock situated in the roadway. He further testified that there are steep, rocky banks on each side of the road; he observed numerous rocks on the hillside and also in the ditch. There were no barriers, netting or other devices to prevent rocks from falling into the roadway; no signs warning of rockfalls were posted. The Claimant submitted invoices in the amount of \$568.64; his collision insurance required a deductible of \$250.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that US Route 250 South was a known area for rockfalls, that the Respondent was negligent in its maintenance of US Route 250 South on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$250.00.

AMOUNT CLAIMED: \$568.64

AMOUNT AWARDED: \$250.00

**CC-20-0408 JOEY L. EPLING AND JEREMY EPLING v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 20, 2020, the Claimant was driving his 2015 Kia Optima on West Virginia Route 20 near Rainelle, Greenbrier County when the vehicle struck a patch of split and broken pavement in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,248.40; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 20 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,248.40

AMOUNT AWARDED: \$500.00

**CC-21-0761 TIMOTHY L. EVANS v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2081 BMW 440i on Interstate 77 South near Charleston, Kanawha County on September 8, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$448.14; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 77 South on the date of the incident and failed to do so properly. The sum of \$448.14 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$448.14

AMOUNT AWARDED: \$448.14

**CC-20-0567 SHIRLEY FABIN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 1, 2020, the Claimant was driving her 2008 Ford Escape on US Route 119 North in Nolan, Mingo County when her vehicle struck a broken signpost that was situated at the edge of the traveling lane of the roadway. The Claimant's vehicle sustained damages in the amount of \$97.94; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 119 North and failed to do so properly on the date of the incident. The sum of \$97.94 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$97.94

AMOUNT AWARDED: \$97.94



**CC-21-0185 TAYLOR FERRELL v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2016 Toyota Corolla on Frame Road in Elkview, Kanawha County on March 6, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$101.25; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Frame Road on the date of the incident and failed to do so properly. The sum of \$101.25 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$101.25

AMOUNT AWARDED: \$101.25

**CC-19-1520 BARRY DUSTIN FIELDS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On or about March 10, 2019, the Claimant was operating his 2017 Harley Davidson motorcycle on West Virginia Route 49 near Thacker, Mingo County when his vehicle struck a large slip in the traveling portion of the roadway. The Claimant lost control of his vehicle, crashed and sustained injuries. The Respondent was responsible for the maintenance of West Virginia Route 49. The Respondent denied any negligence but acknowledged that the Claimant suffered injuries requiring medical treatment. The parties agreed that the settlement of this claim was mutually advantageous to both parties and agreed that the sum of \$8,500.00 was a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: Unspecified

AMOUNT AWARDED: \$8,500.00

**CC-20-0733 KRISTI L. FLEMING-FRUM v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2013 Honda Accord on West Virginia Route 2 in Flatrock, Mason County on November 23, 2020, when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$323.95; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 2 on the date of the incident and failed to do so properly. The sum of \$323.95 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$323.95

AMOUNT AWARDED: \$323.95

**CC-21-0230 PRISCILLA FLORA v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 28, 2021, the Claimant was driving her 2021 Toyota Camry on West Virginia Route 75 near Kenova, Wayne County when her vehicle struck a series of large potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$282.52; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 75 and failed to do so properly on the date of the incident. The sum of \$282.52 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$282.52

AMOUNT AWARDED: \$282.52

**CC-21-0416 CHARLES B. FORINASH v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2019 Ford F150 on US Route 33 in Weston, Lewis County on March 16, 2021 when his vehicle struck an object in the road which then catapulted onto the windshield of the Claimant's vehicle. The Claimant's vehicle sustained damages in the amount of \$508.79; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 33 on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$508.79

AMOUNT AWARDED: \$500.00

**CC-20-0194 GUY GAGE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 2, 2020, the Claimant was driving his 2018 Kia Optima on West Virginia Route 131, Benedum Drive, in Bridgeport, Harrison County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$132.00; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of West Virginia Route 131 and failed to do so properly on the date of the incident. The sum of \$132.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$132.00

AMOUNT AWARDED: \$132.00

**CC-20-0320 CASEY L. GATES v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: In March, 2020, the hillside above the Claimant's residence on Simms Street in St. Albans, Kanawha County began to slip and cause damage to his driveway. The Claimant alleged that the slip was the result of ditching work that the Respondent had undertaken along Simms Street. The Claimant alleged that the damages to his property were proximately caused by the Respondent's failure to properly maintain the ditches. The Respondent was responsible for the maintenance of the ditches on Simms Street. The Respondent denied any negligence but acknowledged that the Claimant's property sustained damage. The parties agreed that the settlement of this claim was mutually advantageous to both parties and agreed that the sum of \$13,000.00 was a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$30,000.00

AMOUNT AWARDED: \$13,000.00

**CC-21-0336 TOM J. GEORGE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Volkswagen SportWagen on County Route 81, Kingwood Pike, near Morgantown, Monongalia County on April 4, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$650.82; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of County Route 81, Kingwood

Pike, on the date of the incident and failed to do so properly. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$650.82

AMOUNT AWARDED: \$250.00

**CC-21-0610 PAIGE GERLACH v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on June 14, 2021, she was driving her 2020 Ford Escape SEL on West Virginia Route 62, Adamsville Road, between Mason and Hartford, Mason County when her vehicle struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$1,135.73; her collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 62, Adamsville Road, on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$1,135.73

AMOUNT AWARDED: \$500.00

**CC-18-0332 KRISTI A. GIBBONS v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: In 2016 and 2017, following heavy rainstorms, the Claimant experienced flooding of her property. She alleged that the flooding was proximately caused by poor drainage after a construction project on South Chestnut Street in Clarksburg, Harrison County. The Respondent was responsible for the maintenance of the drainage systems on South Chestnut Street. The Respondent denied any negligence but acknowledged that the Claimant's property sustained damage. The parties agreed that the settlement of this claim was mutually advantageous to both parties and agreed that the sum of \$37,484.00 was a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$65,000.00

AMOUNT AWARDED: \$37,484.00

**CC-20-0471 SIERRA GIER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 27, 2020, the Claimant was driving her 2013 Toyota Rav4 on Stouts Run Road in St. Mary's, Pleasants County when her vehicle struck an exposed culvert situated at the edge of the roadway. The Claimant's vehicle sustained damages in the amount of \$293.58; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Stouts Run Road and failed to do so properly on the date of the incident. The sum of \$293.58 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$293.58

AMOUNT AWARDED: \$293.58

**CC-20-0509 STUART M. GIMBLIN AND MARGARET A. GIMBLIN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 13, 2020, the Claimant was driving his 2002 Chevrolet AstroVan on West Virginia Route 20 in Springdale, Fayette County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$523.49; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 20 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$523.49

AMOUNT AWARDED: \$500.00

**CC-21-0435 KAREN J. GOETZ v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2021 Volvo XC40 on US Route 19 in Summersville, Nicholas County on April 7, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$285.49; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 19 on the date of the incident and failed to do so properly. The sum of \$285.49 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$285.49

AMOUNT AWARDED: \$285.49

**CC-20-0667 JENNIFER C. GOLDCAMP AND EDWARD M. GOLDCAMP v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 9, 2020, the Claimant was driving her 2018 Subaru Forester on Deckers Creek Boulevard in Morgantown, Monongalia County when her vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$442.66; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Deckers Creek Boulevard and failed to do so properly on the date of the incident. The sum of \$442.66 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$442.66

AMOUNT AWARDED: \$442.66

**CC-20-0602 CARMEN GORE v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that she was driving her 2010 Cadillac on US Route 60 in South Charleston, Kanawha on September 15, 2020 when her vehicle struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$2,017.87; her collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of US Route 60 on the date of the Claimant's incident and that such negligence was the proximate

cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$2,017.87

AMOUNT AWARDED: \$500.00

**CC-21-0200 CHADWICK GOTHARD AND AMY GOTHARD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 21, 2021, the Claimant was driving his 2021 Chevrolet Silverado on the bridge section of West Virginia Route 106 near Huntington, Cabell County, when a large chunk of ice falling from the overhead sections of the bridge struck his vehicle. The Claimants' vehicle sustained damages in the amount of \$755.14; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 106 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$755.14

AMOUNT AWARDED: \$500.00

**CC-21-0439 CATHERINE J. GRACESON v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2014 Subaru Forester on Montrose Drive in South Charleston, Kanawha County on April 2, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$331.37; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Montrose Drive on the date of the incident and failed to do so properly. The sum of \$331.37 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$331.37

AMOUNT AWARDED: \$331.37

**CC-20-0720 JAMES GRAY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2006 Chevrolet HHR on West Virginia Route 2 North in Wellsburg, Brooke County on November 30, 2020, when his vehicle struck several large rocks situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$262.15; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 2 North on the date of the incident and failed to do so properly. The sum of \$262.15 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$262.15

AMOUNT AWARDED: \$262.15

**CC-21-0495 MICHAEL GREEN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2016 Lexus IS300 on County Route 23, Connell Road, in Charleston, Kanawha County on May 22, 2021 when his vehicle struck a series of potholes in the traveling portion of the roadway. The Claimant's vehicle

sustained damages in the amount of \$318.86; he did not carry collision insurance on his vehicle. The Respondent was responsible for the maintenance of County Route 23, Connell Road, on the date of the incident and failed to do so properly. The sum of \$318.86 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$318.86

AMOUNT AWARDED: \$318.86

**CC-20-0544 HAROLD R. GUTHRIE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 2, 2020, the Claimant was driving his 2010 Honda Accord on West Virginia Route 45, River Road, in Westover, Monongalia County, when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$417.23; he did not carry collision insurance on his vehicle. The Respondent was responsible for the maintenance of West Virginia Route 45, River Road, and failed to do so properly on the date of the incident. The sum of \$417.23 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$417.23

AMOUNT AWARDED: \$417.23

**CC-21-0323 ROBERT HAGERMAN AND ROBYN HAGERMAN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Hyundai Elantra on County Route 31, Poca River Road, on April 8, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$92.60; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of County Route 31, Poca River Road, and failed to do so properly on the date of the incident. The sum of \$92.60 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$92.60

AMOUNT AWARDED: \$92.60

**CC-21-0403 JASON HALL v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Nissan Sentra on Flat Run Road near Mannington, Marion County on May 2, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$371.24; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Flat Run Road on the date of the incident and failed to do so properly. The sum of \$ 371.24 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$371.24

AMOUNT AWARDED: \$371.24

**CC-19-1365 PAUL MICHAEL HALL v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that he was driving his vintage 1987 Porsche 944S on West Virginia Route 26, North Preston Highway, in Brandonville, Preston County on September 6, 2018 when his vehicle struck a large pothole in the roadway. The Claimant

submitted invoices in the amount of \$911.51; his collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 16, North Preston Highway, on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$911.51.

AMOUNT CLAIMED: \$911.51

AMOUNT AWARDED: \$911.51

**CC-20-0556 DONALD L. HARDMAN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: Prior to and on May 22, 2020, the Claimant was employed as the Head Mechanic – Mechanic 3 with the Respondent's District 7 Office. In fulfillment of his employment duties, the Claimant used tools owned by the Respondent as well as his personal tools. The Claimant's personal tools were stored in locked tool chests within the Respondent's offices and garages. On May 22, 2020, a robbery occurred at the Respondent's District 7 offices. The offenders broke into the locked tool chests and stole several items and tools. The Respondent was responsible for the security of the District 7 Offices and garages on the date of this incident. The Claimant sustained losses in the amount of \$1,864.95 as a result of the robbery. The Respondent was responsible for the security of the District 7 offices and garages and failed to do so properly on the date of the incident. The sum of \$1,864.95 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,864.95

AMOUNT AWARDED: \$1,864.95

**CC-21-0659 LARRY W. HARPER v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on June 29, 2021, he was driving his 2007 Lincoln MKZ on Upper Pinch Road near Pinch, Kanawha County when his vehicle struck an area of pavement that had slipped. The Claimant submitted invoices in the amount of \$820.49; he did not carry collision insurance on his vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Upper Pinch Road on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$820.49.

AMOUNT CLAIMED: \$820.49

AMOUNT AWARDED: \$820.49

**CC-21-0685 MENDY HARVEY v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on July 19, 2021, she was driving her 2020 Mercedes C43 on Ritter Drive in Beaver, Raleigh County, when her vehicle struck a large pothole adjacent to an exposed expansion joint situated in the roadway. The Claimant submitted invoices in the amount of \$421.47; her collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that its contractor was responsible as the incident occurred within a construction zone.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Ritter Drive on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$421.47.

AMOUNT CLAIMED: \$421.47

AMOUNT AWARDED: \$421.47

**CC-20-0699 JAMES R. HAUGHT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On November 11, 2020, the Claimant was driving his 1994 Ford Aerostar on West Virginia Route 74 South near Mountain, Ritchie County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$84.09; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of West Virginia Route 74 and failed to do so properly on the date of the incident. The sum of \$84.09 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$84.09

AMOUNT AWARDED: \$84.09

**CC-21-0221 RICK HAYNIE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 1, 2021, the Claimant was driving his 2016 GMC Terrain on West Virginia Route 75 in Lavalette, Wayne County when his vehicle struck several large potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$730.68; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 75 and failed to do so properly on the date of the incident. The parties agreed that the sum of \$447.34 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$730.68

AMOUNT AWARDED: \$447.34

**CC-21-0619 CHERYL HENDRICKS v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on May 13, 2021, she was driving her 2021 Hyundai Palisade on West Virginia Route 54 near Mullens, Wyoming County when her



vehicle struck several rocks that were situated in the roadway. She testified that there were no barriers to prevent rocks from falling into the roadway from the adjacent hillside. Furthermore, there were no warning signs posted to designate the area as an area known for rockfalls. The Claimant submitted invoices in the amount of \$2,557.75; her collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent's witness testified that she had conducted an inspection of the area following the incident and observed that rocks were present on the side of the roadway.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 54 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$2,557.75

AMOUNT AWARDED: \$500.00

**CC-20-0603 JAMES C. HENRY IV v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 14, 2020, the Claimant was driving his 2013 Mazda 3 on Interstate 70 West in Wheeling, Ohio County, when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$83.21; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of Interstate 70 West and failed to do so properly on the date of the incident. The sum of \$83.21 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$83.21

AMOUNT AWARDED: \$83.21

**CC-21-0660 LARRY D. HENSLEY AND BRAD HENSLEY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2021 Tesla 3 on West Virginia Route 817 in Henderson, Mason County on June 27, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$639.21; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of West Virginia Route 817 and failed to do so properly on the date of the incident. The sum of \$639.21 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$639.21

AMOUNT AWARDED: \$639.21

**CC-20-0665 LINDSEY HESS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 20, 2020, the Claimant was driving her 2016 Nissan Rogue on the Uffington Bridge on Interstate 79 near Westover, Monongalia County on September 20, 2020 when her vehicle struck a section of the pavement that had separated, creating a large break in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$965.28; her collision insurance required a deductible of \$500.00. The

Respondent was responsible for the maintenance of Interstate 79 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$965.28

AMOUNT AWARDED: \$500.00

**CC-21-0376 RENEA HETRICK v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2019 Mitsubishi Mirage G4 on River Road in Westover, Monongalia County on April 16, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$258.14; she did not carry collision insurance on her vehicle. The Respondent was responsible for the maintenance of River Road on the date of the incident and failed to do so properly. The sum of \$258.14 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$258.14

AMOUNT AWARDED: \$258.14

**CC-21-0543 J. KAY HILL AND BOYD D. HILL v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 Kia Optima on the Interstates 77/79 South split in Charleston, Kanawha County on May 13, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$117.96; their collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of the Interstates 77/79 South split and failed to do so properly on the date of the incident. The sum of \$117.96 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$117.96

AMOUNT AWARDED: \$117.96

**CC-21-0269 APRIL E. HILLIARD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 12, 2021, the Claimant was driving her 2021 Toyota Camry on County Route 12/4, Jacobs Road, near Martinsburg, Berkeley County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$1,761.11; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of County Route 12/4, Jacobs Road, and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,761.11

AMOUNT AWARDED: \$500.00

**CC-20-0540 DEREK HUDSON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 6, 2020, the Claimant was driving on US Route 19 near Roanoke, Lewis County with a 2020 Spartan cargo trailer attached to his vehicle when his vehicle and trailer struck a large depression in the traveling lane of the roadway. The Claimant's trailer sustained damages in excess of \$500.00; his collision insurance required a deductible of \$500.00.

The Respondent was responsible for the maintenance of US Route 19 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$500.00+

AMOUNT AWARDED: \$500.00

**CC-20-0589 JESSICA HUGHART-CALLOWAY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 15, 2020, the Claimant's son was driving her 2016 Lexus IS300 on County Route 21 in Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$361.66; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of County Route 21 and failed to do so properly on the date of the incident. The sum of \$361.66 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$361.66

AMOUNT AWARDED: \$361.66

**CC-21-0479 KATHY L. HUMPHRIES v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2020 Volvo XC40 on Interstate 77 North near Pocatalico, Kanawha County on May 11, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$295.47; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 77 North on the date of the incident and failed to do so properly. The sum of \$295.47 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$295.47

AMOUNT AWARDED: \$295.47

**CC-20-0582 GRANT H. ISENHART v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 16, 2020, the Claimant was driving his 2016 Jeep Compass on US Route 33 in Elkins, Randolph County when his vehicle struck a large hole in the roadway where the concrete pavement had broken away. The Claimant's vehicle sustained damages in the amount of \$156.70; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 33 and failed to do so properly on the date of the incident. The sum of \$156.70 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$156.70

AMOUNT AWARDED: \$156.70

**CC-21-0767 LAWRENCE E. JARRELL AND SHERRI L. JARRELL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 29, 2020, the Claimant was driving his 2014 Ford Explorer on McComas Branch Road in Milton, Cabell County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$635.01;

their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of McComas Branch Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$635.01

AMOUNT AWARDED: \$500.00

**CC-21-0634 ALEX JARVIS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 23, 2021, the Claimant was driving his 2020 Jeep Grand Cherokee on US Route 19 in Morgantown, Monongalia County when his vehicle struck a sharp metal object situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$273.91; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of US Route 19 and failed to do so properly on the date of the incident. The sum of \$273.91 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$273.91

AMOUNT AWARDED: \$273.91

**CC-20-0645 DAVID M. JECKLIN AND KRISTY JECKLIN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 20, 2020, the Claimant was driving his 2007 Toyota Sienna on Deckers Creek Boulevard in Morgantown, Monongalia County when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,168.15; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Deckers Creek Boulevard and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,168.15

AMOUNT AWARDED: \$500.00

**CC-20-0573 BILL JEFFREY, EDNA JEFFREY AND ADRIANA FLEMING v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On November 11, 2018, the Claimant was driving her 2015 Ford Fusion on West Virginia Route 17, Blair Mountain Highway, when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$139.09; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 17, Blair Mountain Highway, and failed to do so properly on the date of the incident. The sum of \$139.09 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$139.09

AMOUNT AWARDED: \$139.09

**CC-21-0232 KIMBERLY D. JENKINS AND THOMAS JENKINS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 3, 2021, the Claimant was driving her 2017 Lincoln MKZ on Interstate 79 North near Morgantown, Monongalia County when her vehicle struck a

series of large potholes in the roadway. The Claimants' vehicle sustained damages in the amount of \$401.80; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 North and failed to do so properly on the date of the incident. The sum of \$401.80 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$401.80

AMOUNT AWARDED: \$401.80

**CC-21-0559 SORAN JENKINS AND JONATHAN JENKINS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 4, 2021, the Claimant was driving her 2019 Ford Fusion on West Virginia Route 20, Buckhannon Pike, near Lost Creek, Harrison County when the vehicle struck a patch of rough road with several ripples in the pavement and then a series of large potholes in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,273.44; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 20, Buckhannon Pike, and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,273.44

AMOUNT AWARDED: \$500.00

**CC-20-0714 JOYCE JOHNSON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On November 19, 2020, the Claimant was driving her 2002 GMC Envoy on Development Drive in Inwood, Berkeley County when her vehicle struck an exposed spike in the roadway. The Claimant's vehicle sustained damages in the amount of \$128.61; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Development Drive and failed to do so properly on the date of the incident. The sum of \$128.61 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$128.61

AMOUNT AWARDED: \$128.61

**CC-21-0282 JOYELL JOHNSTON-BISHOP v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 24, 2021, the Claimant was driving her 2015 Chrysler 200S on Interstate 64 East near Huntington, Cabell County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$783.57; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$783.57 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$783.57

AMOUNT AWARDED: \$783.57

**CC-21-0052 JAMES A. JONES v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that February 29, 2020, he was driving his

2005 Chrysler Pacifica on West Virginia Route 16 in Beckley, Raleigh County when his vehicle struck a large pothole in the roadway. The Claimant further testified that the impact of striking the pothole caused damages to the battery, several electrical connections within the engine and the transmission. The Claimant testified that the delays in the diagnosis and repairs to the transmission were related to the pandemic. The Claimant's vehicle did not sustain any damage to the tires, wheels or rims as a result of striking the pothole. The Claimant submitted invoices in the amount of \$1,435.14; he did not carry collision insurance on his vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the damages to the Claimant's vehicle were more consistent with normal wear and tear and that these damages were not the type of routine damages typically seen after striking a pothole in the roadway. The Respondent further asserted that the majority of the repairs undertaken to the Claimant's vehicle were not contemporaneous with the pothole incident.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 16 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission further found that the Claimant did not satisfy the burden of proof as to the transmission damages and did not establish that the transmission damage was due to striking a pothole. The Claims Commission recommended an award to the Claimant in the sum of \$345.28.

AMOUNT CLAIMED: \$1,435.14

AMOUNT AWARDED: \$345.28

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**CC-20-0605 JERRY L. JONES v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 7, 2020, the Claimant was driving his 2015 Honda Accord EX-L on Deckers Creek Boulevard in Morgantown, Monongalia County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$145.45; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Deckers Creek Boulevard and failed to do so properly on the date of the incident. The sum of \$145.45 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$145.45

AMOUNT AWARDED: \$145.45

**CC-21-0202 JUSTIN JONES v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 26, 2021, the Claimant was driving his 2013 Kia Optima on Robert C. Byrd Drive in Beckley, Raleigh County, when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$318.86; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Robert C. Byrd Drive and failed to do so properly on the date of the incident. The sum of \$318.86 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$318.86

AMOUNT AWARDED: \$318.86

**CC-21-0432 KERRY C. JONES v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2014 Acura RLX on Interstate 64 East near South Charleston, Kanawha County on March 18, 2021 when his vehicle struck a series of large potholes in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$690.00; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 East on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$690.00

AMOUNT AWARDED: \$500.00

**CC-21-0362 VICKIE S. JONES v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2012 Kia Sorento on Stewartstown Road in Morgantown, Monongalia County on March 23, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$451.05; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Stewartstown Road on the date of the incident and failed to do so properly. The sum of \$451.05 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$451.05

AMOUNT AWARDED: \$451.05

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**CC-20-0622 TODD C. JORDAN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 28, 2020, the Claimant was driving his 2014 Cadillac CTS on 1<sup>st</sup> Avenue in Nitro, Kanawha County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$275.24; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of 1<sup>st</sup> Avenue and failed to do so properly on the date of the incident. The sum of \$275.24 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$275.24

AMOUNT AWARDED: \$275.24

**CC-21-0567 CAROLYN R. JUSTICE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 20, 2021, the Claimant was driving her 2012 Ford Fusion on West Virginia Route 61 in Kincaid, Fayette County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$754.54; her collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of West Virginia Route 61 and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$754.54

AMOUNT AWARDED: \$250.00

**CC-21-0478 PERRY J. KELLER AND ALANNA J. KELLER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 16, 2021, the Claimant was driving her 2021 BMW M440i on Interstate 79 South near Big Chimney, Kanawha County when the vehicle struck a series of large potholes in the roadway. The Claimants' vehicle sustained damages in the amount of \$697.44; their collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of Interstate 79 South and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$697.44

AMOUNT AWARDED: \$250.00

**CC-21-0763 TRUDY KELLY AND BRAD KELLY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 25, 2021, the Claimant was driving her 1992 Ford Escort LX on Mt. Carmel Road in Gallipolis Ferry, Mason County when the vehicle struck a large rock located in the roadway. The Claimants' vehicle sustained damages in the amount of \$63.60; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Mt. Carmel Road and failed to do so properly on the date of the incident. The sum of \$63.60 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$63.60

AMOUNT AWARDED: \$63.60

**CC-21-0525 JEANNE KENDALL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 23, 2021, the Claimant was driving her 2013 Nissan Altima on West Virginia Route 817 in Winfield, Putnam County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$267.50; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 817 and failed to do so properly on the date of the incident. The sum of \$267.50 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$267.50

AMOUNT AWARDED: \$267.50

**CC-21-0708 HELEN E. KIDD AND ARNOLD B. KIDD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 8, 2021, the Claimant was driving her 2016 Kia Optima on Mercer Springs Road in Athens, Mercer County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$465.82; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Mercer Springs Road and failed to do so properly on the date of the incident. The sum of \$465.82 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$465.82

AMOUNT AWARDED: \$465.82



**CC-18-1563 MELISSA J. KIDD AND JACKIE L. KIDD ROMACA v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On December 25, 2017, the Claimant was driving her 2014 Fiat 500L on Interstate 64 East in Charleston, Kanawha County when an airborne metal road reflector struck the windshield, shattering the windshield. The reflector entered the interior of the vehicle and struck the Claimant in the head, causing personal injuries. The Claimant lost control of his vehicle, crashed and sustained additional injuries. The Respondent was responsible for the maintenance of Interstate 64 East. The Respondent denied any negligence but acknowledged that the Claimant suffered injuries requiring medical treatment. The parties agreed that the settlement of this claim was mutually advantageous to both parties and agreed that the sum of \$1,800.00 was a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$41,000.00

AMOUNT AWARDED: \$1,800.00

**CC-21-0102 TRISHA ANN KINNEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 12, 2021, the Claimant was driving her 2019 Audi A3 on West Virginia Route 17 North, Spruce River Road, between Hewett and Jeffrey, Boone County, when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$205.64; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 17, Spruce River Road, and failed to do so properly on the date of the incident. The sum of \$205.64 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$205.64

AMOUNT AWARDED: \$205.64

**CC-21-0373 TRISHA ANN KINNEY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2019 Audi A3 on West Virginia Route 17 in Ottawa, Boone County on April 20, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$97.52; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 17 on the date of the incident and failed to do so properly. The sum of \$97.52 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$97.52

AMOUNT AWARDED: \$97.52

**CC-20-0503 JOHN KOHELIS AND MARY KOHELIS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 31, 2020, the Claimant was driving his 2020 Volvo S60 on Short Creek Road in West Liberty, Ohio County when the vehicle struck a series of large potholes in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,158.64; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Short Creek Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,158.64

AMOUNT AWARDED: \$500.00

**CC-21-0408 LINDA KUPEC v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 BMW 540i xDrive on Beechurst Avenue in Morgantown, Monongalia County when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,084.12; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Beechurst Avenue on the date of the incident and failed to do so properly. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,084.12

AMOUNT AWARDED: \$1,000.00

**CC-21-0592 RACHEL LAMBERT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May, 20,2021, the Claimant was driving her 2017 Honda Civic on Kegley School Road between Princeton and Kegley, Mercer County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$442.60; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Kegley School Road and failed to do so properly on the date of the incident. The sum of \$442.60 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$442.60

AMOUNT AWARDED: \$442.60

**CC-21-0353 JAMES R. LAYNE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2019 Subaru Legacy on Interstate 64 East near Mossy, Fayette County on April 1, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$328.31; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 64 East on the date of the incident and failed to do so properly. The sum of \$328.31 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$328.31

AMOUNT AWARDED: \$328.31

**CC-21-0547 JENNIFER JO LEMLEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 12, 2021, the Claimant was driving her 2020 Nissan Altima on US Route 19 in Morgantown, Monongalia County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$431.41; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 19 and failed to do so properly on the date of the incident. The sum of \$431.41 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$431.41

AMOUNT AWARDED: \$431.41

**CC-20-0723 KEVIN S. LINVILLE v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on November 8, 2020, he was driving his 2012 Toyota Tundra and towing his 2011 Keystone Cougar recreational vehicle on Heath Creek Road in Barboursville, Cabell County when his recreational vehicle struck several branches of a large tree that extended into the roadway. The Claimant submitted invoices in the amount of \$6,675.00; he did not carry collision insurance on his recreational vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Heath Creek Road on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$5,000.00.

AMOUNT CLAIMED: \$6,675.00

AMOUNT AWARDED: \$5,000.00

**CC-21-0482 ANDRA LLOYD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 25, 2021, the Claimant was driving her 2008 Mercedes E350 V6 on US Route 35 near St. Albans, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$292.00; she did not carry collision insurance on her vehicle. The Respondent was responsible for the maintenance of US Route 35 and failed to do so properly on the date of the incident. The sum of \$292.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$292.00

AMOUNT AWARDED: \$292.00

**CC-21-0415 LEAH B. LOWE v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on February 21, 2021, following a severe ice storm, she was driving her 2018 Ford Expedition over the East Huntington Bridge near Huntington, Cabell County when a large chunk of ice fell from the bridge and landed on the top of her vehicle, shattering the moonroof of her vehicle. The Claimant testified that she believed that the Respondent should have known that with warming temperatures following the ice storm that ice would melt and fall from the top spans from the bridge and that the bridge should have been closed much earlier than it was. The Claimant submitted invoices in the amount of \$933.85.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that it was foreseeable that ice would thaw and fall from the top spans of the East Huntington Bridge due to rising temperatures following the ice storm, that the Respondent was negligent in its maintenance of the East Huntington Bridge on the date of the Claimant's incident and that such negligence was the proximate cause of the

Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$933.85.

AMOUNT CLAIMED: \$933.85

AMOUNT AWARDED: \$933.85

**CC-20-0579 CHERYL LYNCH v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 25, 2020, the Claimant was driving her 2014 Chevrolet Impala on West Virginia Route 62 in West Columbia, Mason County when her vehicle struck an area of broken pavement that had crumbled and fallen away at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$512.85; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 62 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$512.85

AMOUNT AWARDED: \$500.00

**CC-21-0134 JOHN MACLEOD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 25, 2021, the Claimant was driving his 2009 GMC Yukon on Interstate 70 West in Wheeling, Ohio County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$638.87; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 70 West and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$638.87

AMOUNT AWARDED: \$500.00

**CC-21-0641 KELLY MANKO AND DUSTIN MANKO v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 9, 2021, the Claimant was driving her 2015 Ram 1500 on County Route 22, Coal Lick Road, in Albright, Preston County when the vehicle struck a large patch of cracked and broken pavement in the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$7,000.00; their collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of County Route 22, Coal Lick Road, and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$7,000.00

AMOUNT AWARDED: \$250.00

**CC-21-0157 DANNY J. MARSHALL AND LINDA K. MARSHALL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 29, 2021, the Claimant was driving his 2019 Toyota Camry on US Route 50 in Salem, Harrison County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$908.39; their collision insurance required a deductible of \$300.00. The Respondent was responsible for the

maintenance of US Route 50 and failed to do so properly on the date of the incident. The sum of \$300.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$908.39

AMOUNT AWARDED: \$300.00

**CC-21-0725 KIMBERLY JOAN MARTIN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 17, 2021, the Claimant was driving her 2020 Mitsubishi Mirage on US Route 60 in Huntington, Cabell County when her vehicle struck a section of the road that slipped and gave way while her vehicle was in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$4,403.81; her collision insurance required a deductible of \$400.00. The Respondent was responsible for the maintenance of US Route 60 and failed to do so properly on the date of the incident. The sum of \$400.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$4,403.81

AMOUNT AWARDED: \$400.00

**CC-20-0148 PAUL DAVID MARTIN AND PENNY LEE MARTIN v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. At the hearing, the Claimant testified that on February 6, 2020, their property sustained severe damage when the culvert situated across from the property on West Virginia Route 12 in Red Sulphur Springs, Monroe County, overflowed causing high waters to flow onto their property. The Claimants testified that culvert is often clogged and water overflows following rainstorms. The Claimants further testified that vegetation grows up from the culvert and the grate cover is often covered with litter and other debris. They further testified that they often clear the grate cover to prevent flooding of the roadway and their driveway. The Claimant's witness testified that he had an incident prior to the Claimants' flooding with his vehicle and trailer in the same area where floodwaters coming from the grate created holes and ruts in the roadway. He filed a claim with the Legislative Claims Commission concerning the damage to his vehicle, spoke with an attorney from the Respondent's Legal Department and was awarded a payment for his vehicle damage. The Claimants submitted numerous photographs of the clogged culvert in addition to invoices in the amount of \$5,726.63 for the replacement of their personal property, including several large appliances, that were damaged as a result of the flooding.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimants' property was situated in a natural drainage course and the flood waters were flowing in its natural path. The Respondent further asserted that the Respondent's employees were working throughout the county on the date of the Claimants' incident to address county-wide flooding issues. The Respondent further asserted that it properly maintained the culvert and drainage system on West Virginia Route 12.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent had actual notice of the problems associated with the culvert along West Virginia Route 12 and did not take corrective

action within a reasonable time. The Claims Commission recommended an award to the Claimants in the sum of \$5,726.63.

AMOUNT CLAIMED: \$5,726.63

AMOUNT AWARDED: \$5,726.63

**CC-21-0203 RONALD M. MAUER AND PATRICIA MAUER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 28, 2021, the Claimant was driving her 2002 Pontiac Grand Prix on Interstate 68 East between Coopers Rock and Bruceton Mills, Preston County, when her vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$340.17; they did not carry collision insurance on their vehicle. The Respondent was responsible for the maintenance of Interstate 68 East and failed to do so properly on the date of the incident. The sum of \$340.17 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$340.17

AMOUNT AWARDED: \$340.17

**CC-21-0163 JAMES MAY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Ford Fusion on West Virginia Route 218 near Idamay, Marion County on February 9, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$2,709.54; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 218 on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$2,709.54

AMOUNT AWARDED: \$500.00

**CC-21-0457 PAMELA K. MAYS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 27, 2021, the Claimant was driving her 2017 Chevrolet Cobalt on Newmans Branch Road in Milton, Cabell County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$59.50; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Newmans Branch Road and failed to do so properly on the date of the incident. The sum of \$59.50 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$59.50

AMOUNT AWARDED: \$59.50

**CC-20-0633 ANGELA MAZE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 3, 2020, the Claimant was driving her 2019 Subaru Impreza on West Virginia Route 46, Scott Depot Road, in Hurricane, Putnam County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$354.41; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 46, Scott Depot Road, and failed to

do so properly on the date of the incident. The sum of \$354.41 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$354.41

AMOUNT AWARDED: \$354.41

**CC-18-0693 STEVEN P. MCALISTER AND SANDRA MCALISTER v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of personal injuries sustained as a result of a motorcycle accident. At the hearing, the Claimant testified that on May 6, 2016, they were riding on their 2018 Harley Davidson Ultra Classic motorcycle on County Route 84, Anawalt Ridge Road, in Anawalt, McDowell County. As they were riding, they encountered a significant slip in the roadway. While traveling over the slip, the motorcycle wavered and fell, trapping the Claimant's ankle between the edge of the slipped pavement and the motorcycle. The Claimant's ankle was severely injured, requiring him to undergo several surgeries as well as extensive treatment and rehabilitation.

The Claimant was employed as a field representative for an electrical engineering firm at the time of the accident. He also operated a forty acre family farm with approximately thirty head of cattle on the farm. The Claimant ultimately had to leave his employment with the engineering firm due to his injuries; he found employment as a public building supervisor for his municipality. The Claimant took early retirement when the building supervisor job responsibilities became more physically demanding.

The Claimant's treating physician testified as to the various surgeries and treatments the Claimant had undergone in addition to the future treatment options available to him. The Claimants' economist testified as to the Claimants' lost earnings as a result of this incident. Their economist also testified as to the value of the loss of household earnings as applied to the Claimants' farm.

The Respondent did not dispute liability for the Claimants' incident and agreed to stipulate to the payment of the Claimants' out of pocket medical expenses in the amount of \$60,286.60. The Respondent disputed the validity of the other claimed damages, including lost earnings, loss of household/farm services and future medical expenses.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of County Route 84, Anawalt Ridge Road, on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' injuries. The Claims Commission further found that the evidence before it was insufficient to establish a basis for awards for future medical expenses and any loss of household services relative to the Claimants' farm. The Claims Commission found that the evidence before it supported awards for past medical expenses and lost earnings and recommended an award to the Claimants in the sum of \$203,581.60.

AMOUNT CLAIMED: Unspecified

AMOUNT AWARDED: \$203,581.60

**CC-21-0427 THOMAS MCCORMICK AND ALICE MCCORMICK v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2015 Toyota Rav4 on Campbells Creek Drive near Charleston, Kanawha County on March 25, 2021 when the vehicle

struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$810.82; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Campbells Creek Drive and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$810.82

AMOUNT AWARDED: \$500.00

**CC-21-0470 CAYCEE MCCOY, MICHELE MCCOY AND MICHAEL MCCOY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 27, 2021, the Claimant was driving her 2013 Kia Optima on US Route 60 in Huntington, Cabell County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$166.00; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 and failed to do so properly on the date of the incident. The sum of \$166.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$166.00

AMOUNT AWARDED: \$166.00

**CC-21-0409 BARBARA MCDONALD v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2016 Ford Escape on Gladesville Road in Gladesville, Preston County on April 28, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$466.35; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Gladesville Road on the date of the incident and failed to do so properly. The sum of \$466.35 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$466.35

AMOUNT AWARDED: \$466.35

**CC-21-0178 SHIRLEY MCELFRISH v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2016 Dodge Journey on West Virginia Route 2 in Moundsville, Marshall County on February 27, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$382.30; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 2 on the date of the incident and failed to do so properly. The sum of \$382.30 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$382.30

AMOUNT AWARDED: \$382.30

**CC-21-0215 MARY MCNAIR v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 12, 2021, the Claimant was driving her 2010 Hyundai Sonata on West Virginia Route 20 in Nutter Fort, Harrison County when her vehicle



struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$213.86; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 20 and failed to do so properly on the date of the incident. The sum of \$213.86 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$213.86

AMOUNT AWARDED: \$213.86

**CC-21-0582 JESSICA K. MEADOWS v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on May 23, 2021, she was driving her 2010 Mazda 6 on Interstate 64 in Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$442.62; she did not carry collision insurance on her vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$442.62.

AMOUNT CLAIMED: \$442.62

AMOUNT AWARDED: \$442.62

**CC-21-0608 MICHAEL E. MEADOWS AND BARBARA B. MEADOWS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 7, 2021, the Claimant was driving his 2018 BMW 440 xi on the Montrose Drive entrance ramp to Interstate 64 East in South Charleston, Kanawha County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$518.57; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 East and the associated entrance ramps and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$518.57

AMOUNT AWARDED: \$500.00

**CC-20-0354 DEANNA L. MEDLEN v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that she was driving her 2006 Audi A4 on Simms Street in St. Albans, Kanawha County on April 28, 2020 when her vehicle struck a deep slip in the roadway. The Claimant submitted invoices in the amount of \$2,300.00 for automobile repairs and invoices in the amount of \$1,720.00 for a rental car and associated gasoline purchases; she did not carry collision insurance on her vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Simms Street on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$2,300.00.

AMOUNT CLAIMED: \$4,020.00

AMOUNT AWARDED: \$2,300.00

**CC-21-0391 MACILIA J. MILLER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2013 Ford Fusion on Interstate 64 East in South Charleston, Kanawha County on March 25, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$481.49; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 East on the date of the incident and failed to do so properly. The sum of \$481.49 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$481.49

AMOUNT AWARDED: \$481.49

**CC-21-0229 JENNIFER L. MOSS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 1, 2021, the Claimant was driving her 2016 Lexus is300 on Interstate 64 East in Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$437.63; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$437.63 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$437.63

AMOUNT AWARDED: \$437.63

**CC-21-0097 DEBORAH MULLINS-AYSCUE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 8, 2021, the Claimant was driving her 2008 Subaru Tribeca on West Virginia Route 39 near Belva, Nicholas County when her vehicle struck a large rock that had rolled from the adjacent hillside, landing in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$424.18; her collision insurance required a deductible of \$100.00. The Respondent was responsible for the maintenance of West Virginia Route 39 and failed to do so properly on the date of the incident. The sum of \$100.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$424.18

AMOUNT AWARDED: \$100.00

**CC-21-0703 KATHRYN MULLINS AND LEOLA LINKINOGGOR v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 8, 2021, the Claimant was driving her 2019 Kia Forte on Interstate 79 near Charleston, Kanawha County when the vehicle struck a large hole with loose

concrete adjacent to an expansion joint situated in the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$725.80; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 79 and failed to do so properly on the date of the incident. The sum of \$725.80 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$725.80

AMOUNT AWARDED: \$725.80

#### **CC-21-0267 MARC MULLINS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 16, 2021, the Claimant was driving his 2010 Honda Fit on Fifth Avenue in Huntington, Cabell County, when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$167.52; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of Fifth Avenue and failed to do so properly on the date of the incident. The sum of \$167.52 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$167.52

AMOUNT AWARDED: \$167.52

#### **CC-21-0029 SELENA MUSICK v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on December 15, 2020, she was driving her 2014 Chevrolet Equinox on US Route 52 Bypass in Welch, McDowell County when her vehicle struck a large rock situated in the traveling portion of the roadway. She further testified that this section of the roadway had frequent rockfalls as the hillside adjacent to the road was quite rocky. The Claimant testified that she did not observe any signs warning motorists that this is an area for rockfalls and there were no barriers, nets or other devices present to prevent rocks from falling into the roadway. The Claimant submitted invoices in the amount of \$2,222.73; her collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent's witness testified that a warning sign is posted in the area. Upon inspecting the scene following the Claimant's incident, the witness noted the presence of rocks very close to the traveling lane of the roadway.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$1,000.00.

AMOUNT CLAIMED: \$2,222.73

AMOUNT AWARDED: \$1,000.00

#### **CC-21-0255 JENNIFER MYERS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 22, 2021, the Claimant was driving her 2011 Ford Fusion on Atlantic Road in Tunnelton, Preston County when her vehicle struck a large pothole in

the roadway. The Claimant's vehicle sustained damages in the amount of \$87.93; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Atlantic Road and failed to do so properly on the date of the incident. The sum of \$87.93 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$87.93

AMOUNT AWARDED: \$87.93

**CC-21-0150 SALLY L. NELSON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 28, 2021, the Claimant was driving her 2017 Lincoln MKZ Select on the entrance ramp to Interstate 64 East at Exit 6 in Huntington, Cabell County when her vehicle struck a series of potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$743.58; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 64 East and failed to do so properly on the date of the incident. The sum of \$743.58 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$743.58

AMOUNT AWARDED: \$743.58

**CC-21-0216 BRYAN O'DELL AND ERIN O'DELL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On or about February 18, 2021, the Claimant was driving his 2019 Lexus IS300 on Interstate 64 West in Huntington, Cabell County when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$825.53; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 West and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$825.53

AMOUNT AWARDED: \$500.00

**CC-21-0123 SANDRA O'NEIL AND CHRISTOPHER O'NEIL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 20, 2021, the Claimant was driving her 2020 Kia Telluride on US Route 250 in Limestone, Marshall County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$208.60; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of US Route 250 and failed to do so properly on the date of the incident. The sum of \$208.60 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$208.60

AMOUNT AWARDED: \$208.60

**CC-20-0484 RANDALL OSBORNE AND MELODY OSBORNE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 24, 2020, the Claimant was driving his 2015 Dodge Durango on Interstate 64 West near Alta, Greenbrier County when the vehicle struck several large boulders in the traveling lane of the roadway. The Claimants' vehicle sustained damages in the

amount of \$596.98; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 West and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$596.98

AMOUNT AWARDED: \$500.00

**CC-20-0722 JESSICA L. OTTE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2019 Subaru Ascent on County Route 29, Burch Ridge, in Proctor, Marshall County on October 3, 2020 when her vehicle struck a large patch of broken and jagged pavement in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$170.55; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of County Route 29, Burch Ridge, on the date of the incident and failed to do so properly. The sum of \$170.55 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$170.55

AMOUNT AWARDED: \$170.55

**CC-20-0719 DREW PARSONS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 1, 2020, the Claimant was driving his 2012 Scion TC on Viand Street in Point Pleasant, Mason County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$455.76; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of Viand Street and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$455.76

AMOUNT AWARDED: \$250.00

**CC-21-0344 DREW J. PARSONS v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2012 Scion TC on US Route 60 East in Huntington, Cabell County on March 8, 2021 when his vehicle struck a series of potholes in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$137.78; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of US Route 60 East on the date of the incident and failed to do so properly. The sum of \$137.78 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$137.78

AMOUNT AWARDED: \$137.78

**CC-21-0208 ANDREW S. PATON AND ALLISON PATON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 11, 2021, the Claimant was driving her 2017 Buick Regal GS on the entrance ramp to Interstate 79 South in South Fairmont, Marion County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$357.16; their collision insurance required a deductible of \$500.00. The

Respondent was responsible for the maintenance of the entrance ramp to Interstate 79 South and failed to do so properly on the date of the incident. The sum of \$357.16 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$357.16

AMOUNT AWARDED: \$357.16

**CC-20-0504 SUSAN A. PAULEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 6, 2020, the Claimant was driving her 2014 Toyota Avalon on Interstate 77 South in Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$286.14; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 77 South and failed to do so properly on the date of the incident. The sum of \$286.14 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$286.14

AMOUNT AWARDED: \$286.14

**CC-21-0192 MATTHEW S. PELURIE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 1, 2021, the Claimant was driving his 2015 Audi A3 on MacCorkle Avenue, Southwest in South Charleston, Kanawha County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$379.01; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of MacCorkle Avenue, Southwest and failed to do so properly on the date of the incident. The sum of \$379.01 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$379.01

AMOUNT AWARDED: \$379.01

**CC-21 SAMANTHA PERRY AND MICHAEL PERRY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2015 Dodge Dart on West Virginia Route 152 in Genoa, Wayne County on March 7, 2021 on when the vehicle struck a series of large potholes in the roadway. The Claimants' vehicle sustained damages in the amount of \$2,669.00; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 152 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$2,669.00

AMOUNT AWARDED: \$500.00

**CC-20-0718 DIANNA G. PETTY AND STEPHEN PETTY v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on November 21, 2020, she was driving her 2020 Chevrolet Blazer on Cabin Creek Road near Dry Branch, Kanawha County when her vehicle struck a large pothole in the traveling portion of the roadway. The Claimants

submitted invoices in the amount of \$272.62; their collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Cabin Creek Road on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimants in the sum of \$272.62.

AMOUNT CLAIMED: \$272.62

AMOUNT AWARDED: \$272.62

**CC-20-0627 TIM PHILLIPS AND DOMINIQUE PHILLIPS v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2000 Mazda B-Series pickup truck on Interstate 79 South near Wallback, Roane County on August 1, 2020 when her vehicle was struck by an airborne road reflector. The Claimants' vehicle sustained damages in the amount of \$800.00; they did not carry collision insurance on their vehicle. The Respondent was responsible for the maintenance of Interstate 79 and failed to do so properly on the date of the incident. The sum of \$800.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$800.00

AMOUNT AWARDED: \$800.00

**CC-21-0558 KIMBERLY L. PITSENBARGER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 12, 2021, the Claimant was driving her 2009 Chevrolet Silverado on Summers School Road near Morgantown, Monongalia County, when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$497.85; her collision insurance required a deductible of \$100.00. The Respondent was responsible for the maintenance of Summers School Road and failed to do so properly on the date of the incident. The sum of \$100.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$497.85

AMOUNT AWARDED: \$100.00

**CC-21-0536 AMANDA R. PRICE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 22, 2021, the Claimant was driving her 2014 Chevrolet Malibu on US Route 60 near Montgomery, Fayette County when her vehicle struck several large rocks situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$892.80; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$892.80

AMOUNT AWARDED: \$500.00

**CC-21-0242 WENDY S. PRINTY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 9, 2021, the Claimant was driving her 2018 Buick Regal Sport on Bishoff Farm Road in Bruceton Mills, Preston County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$322.88; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Bishoff Farm Road and failed to do so properly on the date of the incident. The sum of \$322.88 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$322.88

AMOUNT AWARDED: \$322.88

**CC-21-0263 CECIL N. PRITT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 24, 2021, the Claimant was driving his 2010 Ford Escape on Interstate 79 near Bridgeport, Harrison County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$952.64; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$500.00

AMOUNT AWARDED: \$500.00

**CC-20-0384 ROBERT M. RAKES AND ANGELA RAKES v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on May 14, 2020 he was driving his 2015 Ford F-350 on Ellison Ridge Road in Nimitz, Summers County when his vehicle struck a deep trench filled with gravel at the edge of the traveling lane. The Claimants submitted invoices in the amount of \$8,389.75; their collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Ellison Ridge Road on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimants in the sum of \$1,000.00.

AMOUNT CLAIMED: \$8,389.75

AMOUNT AWARDED: \$1,000.00

**CC-20-0599 CHRISTOPHER L. RATLIFF AND AMY RATLIFF v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 17, 2020, the Claimant was driving his 2017 Nissan Sentra on US Route 219 South in Fairlea, Greenbrier County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$126.99; their insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 219 South and failed to do so properly on the date of the incident. The sum of \$126.99 is a fair and reasonable amount to settle the claim.



AMOUNT CLAIMED: \$126.99

AMOUNT AWARDED: \$126.99

**CC-20-0429 TAMMY REDDEN AND ALAN REDDEN v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on June 1, 2020, she was driving her 2017 Ford Escape on West Virginia Route 20 near Springdale, Fayette County when her vehicle struck a series of large potholes in the traveling portion of the roadway. The Claimants submitted invoices in the amount of \$1,285.67; their collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 20 on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimants in the sum of \$500.00.

AMOUNT CLAIMED: \$1,285.67

AMOUNT AWARDED: \$500.00

**CC-20-0640 CJ REED AND HERBERT A. CHAPMAN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 10, 2020, the Claimant was driving his vehicle and hauling a 2017 Quality Trailer on West Virginia Route 180, Veterans Highway, in Middlebourne, Tyler County, when the trailer struck a large pothole at the edge of the roadway. The Claimants' trailer sustained damages in the amount of \$299.98; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 180, Veterans Highway, and failed to do so properly on the date of the incident. The sum of \$299.98 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$299.98

AMOUNT AWARDED: \$299.98

**CC-21-0031 SHANNON REED v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 15, 2021, the Claimant was driving her 2020 Audi S5 on Wilsonburg Road in Wilsonburg, Harrison County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$1,444.62; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Wilsonburg Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,444.62

AMOUNT AWARDED: \$500.00

**CC-20-0515 PATRICIA M. REYNOLDS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 30, 2020, the Claimant was driving her 2013 Subaru XV Crosstrek on US Route 250 in Cameron, Marshall County when her vehicle struck a patch of broken pavement where a slip had occurred in the traveling portion in the roadway. The Claimant's vehicle sustained damages in the amount of \$499.52; her collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of US Route 250 and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$499.52

AMOUNT AWARDED: \$250.00

**CC-20-0628 BRENDA LOU RHODES v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 28, 2020, the Claimant was driving her 2014 Cadillac ATS on Cross Creek Road in Buffalo, Putnam County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$238.60; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Cross Creek Road and failed to do so properly on the date of the incident. The sum of \$238.60 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$238.60

AMOUNT AWARDED: \$238.60

**CC-21-0243 RYAN RHODES v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 9, 2021, the Claimant was driving his 2017 Toyota Corolla on James River and Kanawha Turnpike in Rainelle, Greenbrier County when his vehicle struck a series of large potholes in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$252.23; his collision insurance required a deductible of \$200.00. The Respondent was responsible for the maintenance of James River and Kanawha Turnpike and failed to do so properly on the date of the incident. The sum of \$200.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$252.23

AMOUNT AWARDED: \$200.00

**CC-21-0615 DANA RICHARDSON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 12, 2021, the Claimant was driving her 2021 Ford Edge ST on Waterloo Smith Church Road in Leon, Mason County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$400.34; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Waterloo Smith Church Road and failed to do so properly on the date of the incident. The sum of \$400.34 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$400.34

AMOUNT AWARDED: \$400.34

**CC-21-0369 JOHN W. RICHMOND, JR. v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2020 Dodge RAM on West Virginia Route 61 North in Oak Hill, Fayette County on March 20, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$987.26; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of West Virginia Route 61 North on the date of the incident and failed to do so properly. The sum of \$987.26 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$987.26

AMOUNT AWARDED: \$987.26

**CC-20-0669 KRISTA RICHMOND v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 29, 2020, the Claimant was driving her 2006 Chevrolet Equinox on Craighead Lane in Scarbro, Fayette County when her vehicle struck an improperly graded section of the pavement in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$286.08; she did not carry collision insurance on her vehicle. The Respondent was responsible for the maintenance of Craighead Lane and failed to do so properly on the date of the incident. The sum of \$286.08 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$286.08

AMOUNT AWARDED: \$286.08

**CC-20-0514 NATHAN RICHMOND AND EDEN RICHMOND v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 1, 2020, the Claimant was driving his 2013 Ford Explorer on West Virginia Route 3 in Hinton, Summers County when the vehicle struck a large fallen tree that was situated in the traveling lane of the roadway, completely blocking both lanes of the roadway. The Claimants' vehicle sustained damages in the amount of \$575.99; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 3 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$575.99

AMOUNT AWARDED: \$500.00

**CC-21-0552 MICHELLE R. RIGGLEMAN v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 13, 2021, the Claimant was driving her 2019 Nissan Altima on Interstate 77 near Mink Shoals, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$399.64; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 77 and failed to do so properly on the date of the incident. The sum of \$399.64 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$399.64

AMOUNT AWARDED: \$399.64

**CC-20-0737 ROBERT RILEY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2010 Honda Accord on Buff Creek Road in Hurricane, Putnam County on November 10, 2020 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$308.16; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Buff Creek Road on the date of the incident and failed to do so properly. The sum of \$308.16 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$308.16

AMOUNT AWARDED: \$308.16

**CC-21-0227 JACQUELYN ROBEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 2, 2021, the Claimant was driving her 2017 Kia Sportage on US Route 19 North near Clarksburg, Harrison County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$632.45; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 19 North and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$632.45

AMOUNT AWARDED: \$500.00

**CC-20-0608 BRITTANY ROBINETTE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2020 Subaru Impreza on the Uffington Bridge on Interstate 79 near Westover, Monongalia County on September 20, 2020 when her vehicle struck a section of the pavement that had separated, creating a large break in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$5,424.36; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$5,424.36

AMOUNT AWARDED: \$500.00

**CC-20-0670 AMIE ROBINSON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 29, 2020, the Claimant was driving her 2013 Chevrolet Malibu on Interstate 64 West in Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$133.75; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 64 West and failed to do so properly on the date of the incident. The sum of \$133.75 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$133.75

AMOUNT AWARDED: \$133.75

**CC-21-0509 CODY ROGERS AND KIM WEAVER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 31, 2021, the Claimant was driving his 2017 Ford F-450 on Crossover Way in Spelter, Harrison County when the vehicle struck a series of large potholes in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,928.09; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Crossover Way and failed to do so properly on the date of the incident. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,928.09

AMOUNT AWARDED: \$1,000.00

**CC-21-0284 EDWARD ROSS v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on March 30, 2021, he was driving his 2013 BMW X-1 on West Virginia Route 47 in Parkersburg, Wood County, when his vehicle struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$505.44; his collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 47 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$505.44

AMOUNT AWARDED: \$500.00

**CC-20-0600 EDWARD ROSS AND DONNA ROSS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 24, 2020, the Claimant was driving his 2018 Honda CRV on US Route 22 in Weirton, Brooke County when the vehicle struck a large cement block located in the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$215.60; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 22 and failed to do so properly on the date of the incident. The sum of \$215.60 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$215.60

AMOUNT AWARDED: \$215.60

**CC-20-0679 TERRY ROSS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 12, 2020, the Claimant left his residence on his way to work when he discovered that a large limb from a tree situated on the Respondent's right of way along Gilman Road in Elkins, Randolph County had fallen and landed on his 2006 GMC Sierra. The Claimant's vehicle sustained damages in the amount of \$2,870.63; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the

maintenance of Gilman Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$2,870.63

AMOUNT AWARDED: \$500.00

**CC-21-0577 SHELLEY ROWE AND BRETT ROWE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 17, 2021, the Claimant was driving her 2017 Chevrolet Camaro on 4H Camp Road in Barboursville, Cabell County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$379.54; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of 4H Camp Road and failed to do so properly on the date of the incident. The sum of \$379.54 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$379.54

AMOUNT AWARDED: \$379.54

**CC-21-0023 STEVEN RUPPERT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 3, 2021, the Claimant was driving his 2018 Chevrolet Silverado on Interstate 77 South near Fairplain, Jackson County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$618.55; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 77 South and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$618.55

AMOUNT AWARDED: \$500.00

**CC-21-0352 MATTHEW J. RUX AND HANNAH L. RUX v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2020 Kia Stinger on US Route 250 in Mannington, Marion County on March 9, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,005.04; their collision insurance required a deductible of \$2,000.00. The Respondent was responsible for the maintenance of US Route 250 and failed to do so properly on the date of the incident. The sum of \$1,005.04 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,005.04

AMOUNT AWARDED: \$1,005.04

**CC-21-0485 DEBBIE M. SANSOM AND LLOYD SANSOM v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 4, 2021, the Claimant was driving her 2016 Kia Sportage on Crescent Drive in Ceredo, Wayne County when the vehicle struck a large slip in the traveling portion of the roadway which then gave way causing the Claimants' vehicle to roll down the adjacent embankment. The Claimants' vehicle sustained damages in the amount of \$13,007.70; their collision insurance required a deductible of \$500.00. The Respondent was

responsible for the maintenance of Crescent Drive and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$13,007.70

AMOUNT AWARDED: \$500.00

**CC-21-0350 TRACIE SATTERFIELD AND RONALD L. SATTERFIELD, JR. v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2018 Honda Civic Si on Interstate 79 North between Fairmont and Pleasant Valley, Marion County on March 18, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$189.53; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 North and failed to do so properly on the date of the incident. The sum of \$189.53 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$189.53

AMOUNT AWARDED: \$189.53

**CC-21-0351 TRACIE SATTERFIELD AND RONALD L. SATTERFIELD, JR. v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 29, 2021, the Claimant was driving her 2018 Honda Civic Si on Interstate 79 North between Fairmont and Pleasant Valley, Marion County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$162.63; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 and failed to do so properly on the date of the incident. The sum of \$162.63 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$162.63

AMOUNT AWARDED: \$162.63

**CC-19-1514 JERRY G. SAYER v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of personal injuries he sustained in a motorcycle accident. At the hearing, the Claimant testified that on August 17, 2019, he was operating his 2003 Harley-Davidson SoftTail Deuce on Little Indian Creek Road in Core, Monongalia County when his vehicle struck a large, deep pothole in the roadway. The Claimant lost control of his motorcycle, crashed and was injured, sustaining fractures to his leg, ankle, ribs and scapula. He was hospitalized for several days and underwent several surgeries followed by outpatient therapies and treatments. The Claimant further testified that he still suffers from significant pain and a loss of range of motion in his shoulder. The Claimant submitted medical bills demonstrating out of pocket expenses in the amount of \$4,605.00.

The Respondent denied the validity of the claim in its pleadings. Upon investigation, the Respondent admitted liability and agreed to a payment of just the Claimant's out of pocket expenses.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Little Indian Creek Road on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's injuries. The Claims Commission recommended an award to the Claimant in the sum of \$9,210.00.

AMOUNT CLAIMED: \$100,000

AMOUNT AWARDED: \$9,210.00

**CC-21-0072 CANDACE SCARBERRY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 31, 2021, the Claimant was driving her 2013 Ford F150 FX4 on Grandview Ridge Road in Red House, Putnam County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$205.05; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Grandview Ridge Road and failed to do so properly on the date of the incident. The sum of \$205.05 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$205.05

AMOUNT AWARDED: \$205.05

**CC-21-0069 ELIZABETH K. SCARNATO v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On December 30, 2020, the Claimant was driving her 2010 Subaru Legacy on James River and Kanawha Turnpike in Rainelle, Greenbrier County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$376.88; her collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of James River and Kanawha Turnpike and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$376.88

AMOUNT AWARDED: \$250.00

**CC-21-0334 CARRIE A. SCHWARTZ v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2014 Kia Sorrento on the Interstate 470 Bridge in Wheeling, Ohio County on April 8, 2021 when her vehicle struck a broken and exposed expansion joint situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$558.98; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of the Interstate 470 Bridge on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$558.98

AMOUNT AWARDED: \$500.00

**CC-19-0630 SELECTIVE SERVICE LLC v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 8, 2019, the Claimant's employee was driving the Claimant's 2008 International 5600I 6X4 logging truck on County Route 69/2, Darnell Hollow



Road, near Cheat Lake, Monongalia County, when the vehicle struck a large sinkhole situated in the traveling lane of the roadway. The logging truck sank into the sinkhole, causing significant damage to the vehicle. The Claimant's vehicle sustained damages in the amount of \$92,628.70; its collision insurance required a deductible of \$5,000.00. The Respondent was responsible for the maintenance of County Route 69/2, Darnell Hollow Road, and failed to do so properly on the date of the incident. The sum of \$5,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$92,628.70

AMOUNT AWARDED: \$5,000.00

**CC-20-0753 MARY D. SHEARS v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on October 28, 2020, she was driving her 2019 Toyota Corolla on County Route 21 North in Mineral Wells, Wood County, when her vehicle struck the sharp edge of an area of broken and crumbled pavement in the roadway. The Claimant submitted invoices in the amount of \$466.44; her collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of County Route 21 North on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$466.44.

AMOUNT CLAIMED: \$466.44

AMOUNT AWARDED: \$466.44

**CC-20-0115 CYNTHIA A. SHEETS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On December 11, 2019, the Claimant was driving her 2018 Jeep Compass on County Route 72/4, Montana Road, in Fairmont, Marion County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$187.25; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of County Route 72/4, Montana Road, and failed to do so properly on the date of the incident. The sum of \$187.25 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$187.25

AMOUNT AWARDED: \$187.25

**CC-21-0555 MELISSA DAWN SHULL AND KEVIN L. SHULL v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 30, 2021, the Claimant was driving her 2017 Chevrolet Impala Premiere on Big Seven Mile Road in Lesage, Cabell County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$426.81; their collision insurance required a deductible of \$500.00. The Respondent was

responsible for the maintenance of Big Seven Mile Road and failed to do so properly on the date of the incident. The sum of \$426.81 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$426.81

AMOUNT AWARDED: \$426.81

**CC-21-0218 TROY SHUTLER AND CHRISTINA SHUTLER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 25, 2021, the Claimant was driving his 2019 Toyota Sienna on Stewartstown Road in Morgantown, Monongalia County when his vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$787.41; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Stewartstown Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$787.41

AMOUNT AWARDED: \$500.00

**CC-21-0322 ROBERT SILBERSTEIN v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2005 Ford F-250 SuperDuty on County Route 34, Nadenbousch Lane, in Martinsburg, Berkeley County on April 9, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$7,768.49; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of County Route 34, Nadenbousch Lane, on the date of the incident and failed to do so properly. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$7,768.49

AMOUNT AWARDED: \$1,000.00

**CC-21-0117 KELSEY SILVESTER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 18, 2021, the Claimant was driving her 2013 BMW 335i on Interstate 79 near Jane Lew, Lewis County when her vehicle struck a series of potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$450.00; her collision insurance required a deductible of \$2,000.00. The Respondent was responsible for the maintenance of Interstate 79 and failed to do so properly on the date of the incident. The sum of \$450.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$450.00

AMOUNT AWARDED: \$450.00

**CC-21-0575 MYRA L. SIMMONS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 20, 2021, the Claimant was driving her 2020 Nissan Sentra on West Virginia Route 34 in Liberty, Putnam County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$225.51; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for

the maintenance of West Virginia Route 34 and failed to do so properly on the date of the incident. The sum of \$225.51 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$225.51

AMOUNT AWARDED: \$225.51

**CC-20-0533 CYNTHIA D. SIMS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 20, 2020, the Claimant was driving her 2016 Audi S6 on Mercer Springs Road in Princeton, Mercer County when her vehicle struck a section of the pavement that had deteriorated and crumbled away at the edge of the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,427.27; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Mercer Springs Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,427.27

AMOUNT AWARDED: \$500.00

**CC-21-0330 THERESA SLACK v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2008 Dodge Avenger on US Route 60 in Glasgow, Kanawha County on March 27, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$174.45; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 on the date of the incident and failed to do so properly. The sum of \$174.45 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$174.45

AMOUNT AWARDED: \$174.45

**CC-21-0566 CYNTHIA E. SLATE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 20, 2021, the Claimant was driving her 2017 Jaguar XE on Pleasant Valley Road in Fairmont, Marion County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$219.35; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Pleasant Valley Road and failed to do so properly on the date of the incident. The sum of \$219.35 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$219.35

AMOUNT AWARDED: \$219.35

**CC-21-0466 TAMMRA SMITH v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 7, 2021, the Claimant was driving her 2013 Volkswagen Beetle on Scary Road in Scott Depot, Putnam County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$193.65; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the

maintenance of Scary Road and failed to do so properly on the date of the incident. The sum of \$193.65 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$193.65

AMOUNT AWARDED: \$193.65

**CC-21-0162 JOHN M. SNYDER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2021 Honda Insight on Interstate 79 North near Fairmont, Marion County on March 2, 2021 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$159.16; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 79 North on the date of the incident and failed to do so properly. The sum of \$159.16 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$159.16

AMOUNT AWARDED: \$159.16

**CC-21-0462 CAMERON J. SPAULDING v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 19, 2021, the Claimant was driving his 2008 Kia Amanti on West Virginia Route 62, Charleston Road, in Buffalo, Putnam County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$324.34; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 62, Charleston Road, and failed to do so properly on the date of the incident. The sum of \$324.34 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$324.34

AMOUNT AWARDED: \$324.34

**CC-21-0528 SCOTT SPENCE AND LORRIE SPENCE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2013 Subaru Legacy on the ramp of Exit 6 on Interstate 64 West in West Huntington, Cabell County on May 6, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$375.38; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Interstate 64 West and failed to do so properly on the date of the incident. The sum of \$375.38 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$375.38

AMOUNT AWARDED: \$375.38

**CC-20-0510 ERICA SPENCER, LORI SPENCER AND ARCHIE SPENCER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 9, 2020, the Claimant was driving her 2015 Hyundai Sonata SE on West Run Road in Morgantown, Monongalia County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$8,624.74; their collision insurance required a deductible of \$1,000.00. The Respondent was

responsible for the maintenance of West Run Road and failed to do so properly on the date of the incident. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$8,624.74

AMOUNT AWARDED: \$1,000.00

**CC-21-0158 TONYA SPENCER AND BRYANT SPENCER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimants' son was driving their 2018 Hyundai Elantra on South Pierpont Road in Brookhaven, Monongalia County on February 27, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$272.51; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of South Pierpont Road and failed to do so properly on the date of the incident. The sum of \$272.51 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$272.51

AMOUNT AWARDED: \$272.51

**CC-20-0631 PHYLLIS W. SPROUT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On August 4, 2020, the Claimant was driving her 2017 Ford Focus on Cisco Road in Cairo, Ritchie County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$350.84; her collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Cisco Road and failed to do so properly on the date of the incident. The sum of \$350.84 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$350.84

AMOUNT AWARDED: \$350.84

**CC-20-0357 REGINA A. SQUIRES v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On May 24, 2020, the Claimant was driving her 2017 Nissan Altima on Scotts Fork-Bonnie Road in Sutton, Braxton County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$155.14; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Scotts Fork-Bonnie Road and failed to do so properly on the date of the incident. The sum of \$155.14 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$155.14

AMOUNT AWARDED: \$155.14

**CC-21-0360 BETH STAFFORD v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2014 Jeep Wrangler on West Virginia Route 7 in Morgantown, Monongalia County on March 2, 2021 when her vehicle struck a series of large potholes in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$365.87; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 7 on the

date of the incident and failed to do so properly. The sum of \$365.87 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$365.87

AMOUNT AWARDED: \$365.87

**CC-20-0517 DONNA L. ST. CLAIR v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 18, 2020, the Claimant was driving her 2016 Lincoln MKX on County Route 857, Old Cheat Road, in Morgantown, Monongalia County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$1,714.80; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of County Route 857, Old Cheat Road, and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,714.80

AMOUNT AWARDED: \$500.00

**CC-21-0032 MIKE STEELE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On January 13, 2021, the Claimant was driving his 2015 Toyota Avalon on Rosemar Road in Vienna, Wood County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$301.36; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Rosemar Road and failed to do so properly on the date of the incident. The sum of \$301.36 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$301.36

AMOUNT AWARDED: \$301.36

**CC-20-0560 STACY STRAIT AND MATTHEW LACOVEY v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 13, 2020, the Claimant was driving her 2006 Dodge Dakota on Grass Run Road in Salem, Harrison County when the road gave way causing the Claimants' vehicle to veer off the roadway and almost roll over the adjacent hillside. The Claimants' vehicle sustained damages in the amount of \$189.50; they did not carry collision insurance on their vehicle. The Respondent was responsible for the maintenance of Grass Run Road and failed to do so properly on the date of the incident. The sum of \$189.50 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$189.50

AMOUNT AWARDED: \$189.50

**CC-21-0711 SCOTT SUNYOG AND ELIZABETH SUNYOG v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 4, 2021, the Claimant was driving her 2017 Volvo S60 on West Virginia Route 62 in Buffalo, Putnam County when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$340.26; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the

maintenance of West Virginia Route 62 and failed to do so properly on the date of the incident. The sum of \$340.26 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$340.26

AMOUNT AWARDED: \$340.26

**CC-20-0575 FELISHA SUTHERLAND v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On September 16, 2018, the Claimant was driving her mother's 2017 Toyota Rav4 on Interstate 79 South near Bridgeport, Harrison County when her vehicle struck a large cinder block situated in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$325.07; her collision insurance required a deductible of \$50.00. The Respondent was responsible for the maintenance of Interstate 79 South and failed to do so properly on the date of the incident. The sum of \$50.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$325.07

AMOUNT AWARDED: \$50.00

**CC-21-0617 RENA KAY TAFT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 9, 2021, the Claimant was driving her 2018 Honda CRV on County Route 857, Greenbag Road, in Morgantown, Monongalia County when her vehicle was struck by several airborne chunks of asphalt that had been situated in the roadway. The Claimant's vehicle sustained damages in the amount of \$695.42; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of County Route 857, Greenbag Road, and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$695.42

AMOUNT AWARDED: \$500.00

**CC-21-0034 SHELLIE TERRY, SANDRA TERRY AND KANAWHA VALLEY ENRICHMENT CENTER, LLC**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on December 10, 2020 she was driving her 2020 GMC Yukon and pulling out of the BP service station onto Jefferson Road in South Charleston, Kanawha County when her vehicle struck a large pothole. The Claimants submitted invoices in the amount of \$1,517.21; their collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent's investigator testified that the Respondent's original right of way on Jefferson Road extended into the property controlled and maintained by the BP service station. There is no written agreement between the Respondent and the owner of the BP service station as to the entity responsible for the area where the pothole is located.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Jefferson Road on the date of the Claimants' incident and that such negligence was the

proximate cause of the Claimants' damages. The Claims Commission further found that some of the repairs and damages submitted by the Claimants were due to normal wear and tear and were not causally related to the impact with the pothole. The Claims Commission recommended an award to the Claimants in the sum of \$500.00.

AMOUNT CLAIMED: \$1,517.21

AMOUNT AWARDED: \$500.00

**CC-21-0697 KITTY THAXTON AND BUDDY THAXTON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 2, 2020, the Claimant was driving her 2008 Mercedes GL 320 CDI on Poca Road in Looneyville, Roane County, when her vehicle struck a large and lengthy slip located in the traveling lane of the roadway. The Claimants' vehicle sustained damages in the amount of \$878.47; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Poca Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$878.47

AMOUNT AWARDED: \$500.00

**CC-21-0115 RAYMOND D. THISTLETHWAITE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 15, 2021, the Claimant was driving his 2012 Subaru Legacy on Interstate 79 North near Morgantown, Monongalia County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$217.79; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 and failed to do so properly on the date of the incident. The sum of \$217.79 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$217.79

AMOUNT AWARDED: \$217.79

**CC-21-0576 AUSTIN THOMPSON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on June 10, 2021 he left his grandfather's residence on Cornbread Ridge Road in Princeton, Mercer County and traveled to Beaver, Raleigh County driving his 2018 Chevrolet Silverado on Cornbread Ridge Road and Interstate 77. He returned to his grandfather's home on Cornbread Ridge Road traveling the same route. When he arrived at his destination, he discovered that there was yellow paint on the driver's side of his vehicle. The Claimant further testified that he observed a paint truck working on Cornbread Ridge Road the day before while he was driving on Cornbread Ridge Road. The Claimant submitted invoices in the amount of \$1,380.82; his collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing. The Respondent asserted that its contractor was responsible for the damages to the Claimants' vehicle.



The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Cornbread Ridge Road on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$ 1,380.82

AMOUNT AWARDED: \$500.00

**CC-21-0234 JAMES THOMPSON, JR. v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on February 25, 2021, he was driving his 1999 Dodge Ram 1500 on County Route 1 in Parsons, Tucker County when his vehicle struck a large rock situated in the roadway. He further testified that there were steep, rocky banks on each side of the road and there were no barriers, netting or other devices to prevent rocks from falling into the roadway. The Claimant submitted invoices in the amount of \$605.05; he did not carry collision insurance on his vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that County Route 1 was a known area for rockfalls, that the Respondent was negligent in its maintenance of County Route 1 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$605.05.

AMOUNT CLAIMED: \$605.05

AMOUNT AWARDED: \$605.05

**CC-21-0445 SARRAH THOMPSON v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 Toyota Corolla on Cabin Creek Drive in Cabin Creek, Kanawha County on October 27, 2020 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$257.94; her collision insurance required a deductible of \$200.00. The Respondent was responsible for the maintenance of Cabin Creek Drive on the date of the incident and failed to do so properly. The sum of \$200.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$257.94

AMOUNT AWARDED: \$200.00

**CC-21-0184 VICTORIA TILLERY AND DAVID MORGAN v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on March 1, 2021, she was driving her 2019 Ford Fusion on Interstate 79 North near Morgantown, Monongalia County when her vehicle struck a large pothole in the traveling portion of the roadway. The Claimants submitted invoices in the amount of \$1,381.26; their collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Interstate 79 North on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimants in the sum of \$1,000.00.

AMOUNT CLAIMED: \$1,381.26

AMOUNT AWARDED: \$1,000.00

**CC-21-0310 MICHAEL TOTH v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 4, 2021, the Claimant was driving his 2018 Subaru WRX STI on Deckers Creek Boulevard in Morgantown, Monongalia County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$1,173.67; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Deckers Creek Boulevard and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,173.67

AMOUNT AWARDED: \$500.00

**CC-20-0740 MARCINA S. TOWNSEND v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on November 15, 2020, a heavy storm with strong winds caused a large tree situated on the Respondent's right of way along Elmwood Avenue in Parkersburg, Wood County, to fall and land on her 2013 Ford Fusion which was parked adjacent to the Respondent's right of way. She notified the Respondent's local office of the tree on her vehicle and was advised a work crew would be dispatched to address the tree; no work crew ever arrived that day. The Claimant further testified that she was concerned about the tree's condition and notified that Respondent's local office before the heavy storm of November 15, 2020 damaged her vehicle. The Claimant submitted invoices in the amount of \$2,069.12; her collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Elmwood Avenue on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$2,069.12

AMOUNT AWARDED: \$500.00

**CC-21-0506 CLINT P. TREADWAY AND SARAH A. TREADWAY v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2017 Jeep Renegade Latitude 4x4 on Town Park Road in Fayetteville, Fayette County on May 18, 2021, when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$1,078.24; their collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Town Park Road and failed to do so properly

on the date of the incident. The sum of \$1,000.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,078.24

AMOUNT AWARDED: \$1,000.00

**CC-21-0674 DOUGLAS E. TRIPLETT v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On June 29, 2021, the Claimant was driving his 2001 GMC Sierra on Prices Creek Road in Huntington, Cabell County when his vehicle struck a large tree trunk that had fallen from the adjacent hillside and extended into the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$466.73; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Prices Creek Road and failed to do so properly on the date of the incident. The sum of \$466.73 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$466.73

AMOUNT AWARDED: \$466.73

**CC-21-0135 SADIE TUNISON v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2015 Toyota Corolla on the entrance ramp to Interstate 79 South near Clarksburg, Harrison County on February 19, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$224.34; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Interstate 79 South on the date of the incident and failed to do so properly. The sum of \$224.34 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$224.34

AMOUNT AWARDED: \$224.34

**CC-21-0166 JUSTIN TURNER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2011 Ford Flex on Interstate 64 East near Dunbar, Kanawha County on February 13, 2021 when his vehicle struck a large piece of concrete that had become dislodged from a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$657.30; he did not carry collision insurance on his vehicle. The Respondent was responsible for the maintenance of Interstate 64 East on the date of the incident and failed to do so properly. The sum of \$657.30 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$657.30

AMOUNT AWARDED: \$657.30

**CC-20-0597 LARRY UNDERWOOD v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that he was driving his 2009 Ford F-150 on West Virginia Route 2 in Bens Run, Tyler County on or about July 24, 2019 when his vehicle

struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$279.38; his collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of West Virginia Route 2 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$279.38.

AMOUNT CLAIMED: \$279.38

AMOUNT AWARDED: \$279.38

**CC-21-0148 OPAL VANCE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2013 Buick Regal GS on West Virginia Route 75 in Lavalette, Wayne County on February 16, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$267.50; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 75 on the date of the incident and failed to do so properly. The sum of \$267.50 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$267.50

AMOUNT AWARDED: \$267.50

**CC-21-0717 MARK A. WAID v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On July 30, 2021, the Claimant was driving his 2021 Hyundai Palisade on West Virginia Route 62 in Letart, Mason County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$831.42; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of West Virginia Route 62 and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$831.42

AMOUNT AWARDED: \$250.00

**CC-20-0649 JUSTIN WALKER v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2017 Jeep Wrangler on Mathews Road in Red House, Putnam County on October 20, 2020 when his vehicle struck a large patch of broken pavement in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$178.08; his collision insurance required a deductible of \$1,000.00. The Respondent was responsible for the maintenance of Mathews Road on the date of the incident and failed to do so properly. The sum of \$178.08 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$178.08

AMOUNT AWARDED: \$178.08

**CC-21-0356 ROSALYN LEE WALLACE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 2, 2021, the Claimant was driving her 2020 Nissan Altima VC-T Platinum on US Route 60 in Cedar Grove, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$695.50; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$695.50

AMOUNT AWARDED: \$500.00

**CC-21-0404 XZAVIER COLT WALLS AND DAVID E. HENSLEY v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on April 23, 2021, he was driving his 2016 Chrysler 200S on Kegley School Road in Kegley, Mercer County when his vehicle struck a large pothole in the roadway. The Claimants submitted invoices in the amount of \$197.58; their collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Kegley School Road on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$197.58.

AMOUNT CLAIMED: \$197.58

AMOUNT AWARDED: \$197.58

**CC-21-0405 XZAVIER COLT WALLS AND DAVID E. HENSLEY v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that he was driving his 2016 Chrysler 200S on Kegley School Road on April 9, 2021 when his vehicle struck a large pothole in the traveling portion of the roadway. The Claimants submitted invoices in the amount of \$219.49; their collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Kegley School Road on the date of the Claimants' incident and that such negligence was the proximate cause of the Claimants' damages. The Claims Commission recommended an award to the Claimants in the sum of \$219.49.

AMOUNT CLAIMED: \$219.49

AMOUNT AWARDED: \$219.49

**CC-21-0357 ROBERT A. WARD v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on April 7, 2021, he was driving his 2019 Mitsubishi Mirage on US Route 60 near Chelyan, Kanawha County when his vehicle struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$896.55; his collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of US Route 60 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$500.00.

AMOUNT CLAIMED: \$896.55

AMOUNT AWARDED: \$500.00

**CC-21-0160 ROBIN WATSON AND GREG WATSON v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2019 Nissan Maxima on West Virginia Route 34 in Teays Valley, Putnam County on March 3, 2021, when her vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$227.90; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 34 and failed to do so properly on the date of the incident. The sum of \$227.90 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$227.90

AMOUNT AWARDED: \$227.90

**CC-21-0289 DAVID WATTERSON v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 23, 2021, the Claimant was hauling a 2009 Kaufman dump trailer on West Virginia Route 2 in Apple Grove, Mason County, when his vehicle and trailer struck a large pothole in the roadway. The Claimant's trailer sustained damages in the amount of \$392.26; his collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of West Virginia Route 2 and failed to do so properly on the date of the incident. The sum of \$250.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$392.26

AMOUNT AWARDED: \$250.00

**CC-19-0390 DONNA WATTS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On or about March 4, 2019, the Claimant was driving her 2015 Chevrolet Malibu on Kelly Hollow Road in Blair, Logan County when her vehicle struck a large pothole in the roadway. The Claimant was again driving her 2015 Chevrolet Malibu on Kelly Hollow Road in Blair, Logan County on or about February 5, 2021 when her vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$528.76 and \$89.04 in the incidents; her collision insurance required a deductible of \$500.00. The Respondent

was responsible for the maintenance of Kelly Hollow Road and failed to do so properly on the dates of the incidents. The sum of \$589.04 is a fair and reasonable amount to settle the claims.

AMOUNT CLAIMED: \$617.79

AMOUNT AWARDED: \$589.04

**CC-21-0614 RODNEY WEESE, JR. AND ALEACEA WEESE v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2014 Chevrolet Cruze on US Route 60 near Glen Ferris, Fayette County on July 12, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$8,987.74; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 60 and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$8,987.74

AMOUNT AWARDED: \$500.00

**CC-20-0708 HEIDI WEHNER v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On November 1, 2020, the Claimant was driving her 2020 Mercedes GLA 250 on Cabin Creek Road in Cabin Creek, Kanawha County when her vehicle struck a section of the roadway that had become cracked and separated due to a slip in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$1,231.24; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Cabin Creek Road and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$1,231.24

AMOUNT AWARDED: \$500.00

**CC-21-0118 ANGELA M. WERTHEIM v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2016 Dodge Dart on West Virginia Route 58 in Anmoore, Harrison County on February 22, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$549.96; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 58 on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$549.96

AMOUNT AWARDED: \$500.00

**CC-21-0748 KAREN WESTFALL v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on April 25, 2021, she was driving her 2013 Chevrolet Malibu on Interstate 79 near Charleston, Kanawha County when her vehicle struck a large pothole in the roadway. The Claimant submitted invoices in the amount of \$976.35; she did not carry collision insurance on her vehicle.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Interstate 79 on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$976.35.

AMOUNT CLAIMED: \$976.35

AMOUNT AWARDED: \$976.35

**CC-20-0707 CLAIRE L. WHITE AND FREDERICK J. WHITE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On October 29, 2020, the Claimant was driving her 2015 Ford Fusion on Interstate 470 Bypass in Wheeling, Ohio County, when her vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$211.89; their collision insurance required a deductible of \$250.00. The Respondent was responsible for the maintenance of Interstate 470 Bypass and failed to do so properly on the date of the incident. The sum of \$211.89 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$211.89

AMOUNT AWARDED: \$211.89

**CC-21-0217 LAWRENCE JOSEPH WHITE v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On February 21, 2021, the Claimant was driving his 2017 Cadillac CTS on US Route 19 in Fayetteville, Fayette County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$259.65; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 19 and failed to do so properly on the date of the incident. The sum of \$259.65 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$259.65

AMOUNT AWARDED: \$259.65

**CC-21-0080 SUSAN WILLEY AND SHAWN WILLEY, SR. v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2003 Saturn L300 on Interstate 79 North near Morgantown, Monongalia County on January 26, 2021 when the vehicle struck a large piece of asphalt protruding from the traveling surface of the roadway. The Claimants' vehicle sustained damages in the amount of \$787.52; they did not carry collision insurance on their vehicle. The Respondent was responsible for the maintenance of Interstate 79 North and failed to do so properly on the date of the incident. The sum of \$787.52 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$787.52

AMOUNT AWARDED: \$787.52



**CC-21-0406 JAMES WILLIAMS v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On April 22, 2021, the Claimant was driving his 2016 Ford Focus on Bays Road in Birch River, Nicholas County when his vehicle struck several large potholes in the roadway. The Claimant's vehicle sustained damages in the amount of \$165.25; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Bays Road and failed to do so properly on the date of the incident. The sum of \$165.25 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$165.25

AMOUNT AWARDED: \$165.25

**CC-21-0297 BRITTANY R. WILLARD v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on March 9, 2021, she was driving her 2020 Jeep Grand Cherokee on Interstate 64 West near St. Albans, Kanawha County. As she passed the ongoing road-widening construction project in this area, she observed heavy equipment, including an excavator, moving at the side of the road. She moved from the right lane of travel to the left lane to avoid getting too close to the construction area. As she did, she heard a loud popping noise and then, shattered glass filled the interior of her vehicle. She was unable to stop to inspect the damage to her vehicle or determine what type of object had struck the roof of her vehicle because the shoulders of the road were closed due to the ongoing construction. The Claimant testified that she believed that a rock or piece of concrete became airborne as a result of the work performed by the excavator, which then struck the sunroof of her vehicle. The Claimant submitted invoices in the amount of \$1,000.13; her collision insurance required a deductible of \$1,000.00.

The Respondent and its contractor denied the validity of the claim in its pleadings and at the hearing. The Respondent's witness testified that the work records for that day indicated that the subcontractor was clearing trees from the adjacent hillside and grinding them up. Additionally, concrete had been poured in the morning hours but that work had been completed by the time the Claimant had driven through the construction zone. The witness further testified that at the time the Claimant's incident, the work crews were moving heavy equipment, including excavators and other similar machines, from one area to another within the construction zone area.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Interstate 64 West on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$1,000.00.

AMOUNT CLAIMED: \$1,000.13

AMOUNT AWARDED: \$1,000.00

**CC-19-1051 KRISTEN WILSON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that she was driving her 2017 Kia Soul Plus on 8<sup>th</sup> Avenue in Huntington, Cabell County on July 2, 2019 when her vehicle struck a large

pothole in the roadway. The Claimant submitted invoices in the amount of \$110.64; her collision insurance required a deductible of \$1,000.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing and asserted that its contractor was responsible for the damage to the Claimant's vehicle.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of 8<sup>th</sup> Avenue on the date of the Claimant's incident and that such negligence was the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$110.64.

AMOUNT CLAIMED: \$110.64

AMOUNT AWARDED: \$110.64

#### **CC-21-0191 HANNAH WISECUP v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2021 Toyota Camry on West Virginia Route 62 in Nitro, Putnam County on March 1, 2021, when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$989.79; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of West Virginia Route 62 on the date of the incident and failed to do so properly. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$989.79

AMOUNT AWARDED: \$500.00

#### **CC-21-0670 NICHOLAS WITHROW AND CONNIE CLARK v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2009 Lincoln MKZ on Dairy Road in Poca, Putnam County on July 23, 2021 when the vehicle struck a large pothole in the roadway. The Claimants' vehicle sustained damages in the amount of \$188.29; their collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Dairy Road and failed to do so properly on the date of the incident. The sum of \$188.29 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$188.29

AMOUNT AWARDED: \$188.29

#### **CC-20-0701 DAVID F. WOLEN v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on October 24, 2020, he was driving his 2016 GMC Sierra on Middle Grave Creek Road in Moundsville, Marshall County when his vehicle struck an area of broken pavement which created a large pothole at the edge of the roadway. The Claimant submitted invoices in the amount of \$275.60; his collision insurance required a deductible of \$500.00.

The Respondent denied the validity of the claim in its pleadings and at the hearing.

The Legislative Claims Commission found that the Respondent was negligent in its maintenance of Middle Grave Creek Road on the date of the Claimant's incident and that such negligence was

the proximate cause of the Claimant's damages. The Claims Commission recommended an award to the Claimant in the sum of \$275.60.

AMOUNT CLAIMED: \$275.60

AMOUNT AWARDED: \$275.60

**CC-21-0252 DAVID WOLFORD v. DIVISION OF HIGHWAYS**

The parties stipulated as follows: On March 8, 2021, the Claimant was driving his 2017 Lincoln MKZ on US Route 250 North in Farmington, Marion County when his vehicle struck a large pothole in the roadway. The Claimant's vehicle sustained damages in the amount of \$726.95; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of US Route 250 North and failed to do so properly on the date of the incident. The sum of \$500.00 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$726.95

AMOUNT AWARDED: \$500.00

**CC-20-0638 BRIAN YANOK v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving his 2006 Chevrolet Corvette on 5<sup>th</sup> Avenue in Huntington, Cabell County on August 9, 2020 when his vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$160.50; his collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of 5<sup>th</sup> Avenue on the date of the incident and failed to do so properly. The sum of \$160.50 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$160.50

AMOUNT AWARDED: \$160.50

**CC-21-0127 AMY YOUNG v. DIVISION OF HIGHWAYS**

The parties stipulated to the following: The Claimant was driving her 2019 Subaru Legacy on Buckhannon Pike in Clarksburg, Harrison County on February 11, 2021 when her vehicle struck a pothole in the traveling portion of the roadway. The Claimant's vehicle sustained damages in the amount of \$195.86; her collision insurance required a deductible of \$500.00. The Respondent was responsible for the maintenance of Buckhannon Pike on the date of the incident and failed to do so properly. The sum of \$195.86 is a fair and reasonable amount to settle the claim.

AMOUNT CLAIMED: \$195.86

AMOUNT AWARDED: \$195.86

**CLAIM AGAINST THE DEPARTMENT OF TRANSPORTATION, DIVISION OF MOTOR VEHICLES**

**CC-20-0730 JACKSON KELLY, PLLC v. DIVISION OF MOTOR VEHICLES**

The Claimants brought this claim to recover \$315.00 for providing professional services pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$315.00.

AMOUNT CLAIMED: \$315.00

AMOUNT AWARDED: \$315.00

**CLAIM AGAINST THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE**

**CC-21-0476 JOHN'S LOCK AND KEY SERVICE v. JOINT COMMITTEE ON GOVERNMENT AND FINANCE, DIVISION OF LEGISLATIVE SERVICES**

The Claimant brought this claim to recover \$135.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$135.00.

AMOUNT CLAIMED: \$135.00

AMOUNT AWARDED: \$135.00

**CLAIM AGAINST THE WEST VIRGINIA PAROLE BOARD**

**CC-21-0285 TED ALFORD WHITE v. WEST VIRGINIA PAROLE BOARD**

The Claimant brought this claim to recover \$3,051.54 for unpaid per diem fees and travel expenses associated with his term of service on the West Virginia Parole Board, as documented by unpaid invoices. The Respondent admitted the validity of the claim and stated that there were sufficient funds expired in the appropriate fiscal year from which the invoices could have been paid. The Claims Commission recommended an award in the amount of \$3,051.54.

AMOUNT CLAIMED: \$3, 051.54

AMOUNT AWARDED: \$3,051.54

**WEST VIRGINIA LEGISLATIVE CLAIMS COMMISSION  
ABSTRACTS OF DISALLOWED CLAIMS**

**CLAIM AGAINST THE DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

**CC-20-0706 POMEROY TECHNOLOGIES, INC, v. DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY**

The Claimant brought this claim to recover \$214,970.07 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent denied the validity of the claim and asserted that this claim was a duplicate of Claim Number CC-20-0698. The Claimant did not submit any additional documentation or other evidence to dispute the Respondent's position. The Legislative Claims Commission found that CC-20-0706 was a duplicate claim and accordingly, should be denied. .

AMOUNT CLAIMED: \$214,970.07

AMOUNT AWARDED: \$0.00

**CLAIMS AGAINST THE DEPARTMENT OF EDUCATION**

**CC-17-0530 POCAHONTAS COUNTY BOARD OF EDUCATION v. DEPARTMENT OF EDUCATION**

**CC-17-0531 KANAWHA COUNTY BOARD OF EDUCATION v. DEPARTMENT OF EDUCATION**

**CC-17-0532 MARION COUNTY BOARD OF EDUCATION v. DEPARTMENT OF EDUCATION**

**CC-17-0533 FAYETTE COUNTY BOARD OF EDUCATION v. DEPARTMENT OF EDUCATION**

**CC-17-0534 GREENBRIER COUNTY BOARD OF EDUCATION v. DEPARTMENT OF EDUCATION**

**CC-17-0537 RANDOLPH COUNTY BOARD OF EDUCATION v. DEPARTMENT OF EDUCATION**

During the 2008 Legislative Session, the West Virginia Legislature sought to increase state funding to all county boards of education. House Bill 4588, which amended the framework for the funding of the State's basic foundation program for Fiscal Years 2009 through 2013, was passed. This bill allowed for gradual increases in state funding to be phased in over a five-year period. The funding was a step by step formula with seven steps linked to the costs for specific budgeting categories, including professional educators, service personnel, transportation and other restricted classifications. Prior to 2008, the Legislature appropriated state funds to be directed to the Public School Support Plan as separate line items in the budget pursuant to each step within

the funding formula. The Budget Bills during the five-year phase-in period continued to allocate state education funding based on the pre-existing step-by-step framework. After the five-year phase-in was completed, the Legislature repealed the statutory provisions included in House Bill 4588. The Bill contained provisions directing the Respondent to calculate each county's state funding twice; once under the House Bill 4588 formula and once under the old methodology prior to 2008's House Bill 4588. The Respondent was then statutorily directed to add a growth factor to the calculations that represented the phased-in increases. The Respondent was further directed to compare the amounts calculated using the old methodology and the amounts calculated using the new methodology and use the greater of the two amounts for the final appropriations.

Once the five-year phase-in period was complete, a compliance audit was prepared by the Legislative Auditor's Office. This report was issued in September, 2015 and found that the Respondent purportedly misinterpreted the application of House Bill 4588 found in West Virginia Code §18-9A-1 et seq. As a result, the new funding formulas were purportedly misapplied which culminated in underfunding the State Aid allotment for a number of counties, including the Claimants. According to this Report, these counties were underfunded by approximately \$30.1 million dollars. The Respondent disputed the findings of the Audit and asserted that it had properly applied the new funding law and that the Legislature had made yearly appropriations for public education based on the Respondent's method of calculating the formulas. Notably, this Audit did not make any recommendations to the Legislature regarding additional appropriations to make up for the purported shortfalls nor did it recommend that efforts be undertaken to collect previously appropriated State monies to the counties that had been overfunded. The West Virginia Legislature did not take any further action upon receipt of this Audit Report.

The six Claimant counties first filed suit in the Circuit Court of Kanawha County in an effort to recover the monetary underpayments. They also filed their Notices of Claim with the Legislative Claims Commission; these claims were held in abeyance until the conclusion of the Kanawha County actions. In 2019, the Kanawha County actions were dismissed based upon a finding that there was no insurance coverage available and the State of West Virginia was immune from suit in state court. The Legislative Claims Commission lifted the previously filed Stay and consolidated the claims.

At the hearing before the Legislative Claims Commission, the Claimants, based upon the Audit Report, sought to be awarded the sums of state monies they would have received had the calculations and formulas been properly applied and calculated.

The Respondent disputed the validity of the claims in its pleadings and at the hearing. The Respondent asserted that the funding framework within House Bill 4588 encompassed the calculation methods that had been in effect in previous years and that the Respondent properly followed the formula as stated in accordance with both the statutory provisions and its past practices.

The record before the Legislative Claims Commission reflected the complexity of the State School Funding Formula. The implementation of the State's appropriations and funding of public education is significantly complex to the point that a specialized division within the Respondent agency has been established to assure compliance with all relevant West Virginia Code provisions. The evidence before the Claims Commission demonstrated that the intent of House Bill 4588 was not to completely overhaul the Public School Support Plan, but rather to increase

state funding over a five-year period so as to not overwhelm the State's budget all at once. Additionally, the purpose of the Audit Report was to determine compliance with the applicable statutory provisions; no corrective appropriations were recommended. No evidence showing demonstrable harm to the six Claimant counties was submitted. Indeed, the record before the Claims Commission was remarkably silent as to whether any of the six Claimant counties sustained harm as a result of the alleged underfunding. There was nothing in the record before the Claims Commission to demonstrate, in any way, that the purported underfunding prevented the Claimants from delivering required public education services to their student and other stakeholders. In the absence of documented harm, there can be no finding of a moral obligation.

The Legislative Claims Commission found that the Claimants failed to satisfy their burden of proof to prevail on the claims. The Claims Commission further found that the Legislature had previously addressed the allegations following the receipt of the Audit Report and opted to not make any corrective appropriations. The Claims Commission further found that there was no evidence of actual harm suffered by any of the Claimants and that there was no basis in the record to determine that a moral obligation existed sufficient to support a recommendation of payment to the Legislature.

AMOUNT CLAIMED: \$15,106,343.82

AMOUNT AWARDED: \$0.00

### **CLAIMS AGAINST THE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

#### **CC-15-1422 CRAIG HARDMAN AND ASHLEY HARDMAN v. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. In the Spring of 2015, the Claimants observed an area in their backyard where the earth had moved and water was shooting up from the ground where an underground drainage system maintained by the Respondent was located. This underground pipe system was installed prior to the Claimants moving a mobile home onto this property and was designed to alleviate the water pressure from an abandoned mine that was situated above their property. The earth on the rear of their property continued to move and caused their mobile home to shift off the piers and foundation, causing damage to the structure and interior of the mobile home. The Claimants contacted the Respondent's local office regarding the issues with their backyard and the underground pipe. Upon inspection, it was determined that there was a break in the pipe. The Respondent's work crew excavated the backyard, determined the location of the break, replaced the pipe and restored the soil in the backyard. The Claimants continued to experience problems with saturation of the hillside at the rear of their property along with continued earth movement and damage to their residence. The Claimants' contractor submitted an estimate in the amount of \$200,000 which included \$160,000.00 for the purchase of a new mobile home and the necessary foundation work to make the property suitable for a new mobile home.

The Claimants' environmental science and engineering expert testified that he inspected the Claimant's property after the Respondent's crew had replaced the pipe. He focused on the Claimants' property and did not view any of the other properties bordering that of the Claimants. The Claimants' expert opined that the underground drainage system was improperly maintained

and poorly designed. He testified that large amounts of accumulated iron, metal and other byproducts of the oxidation process would be present in the drainage system, a sign that the system had not been regularly maintained. He further opined that the slippage of the earth was due to the malfunctioning underground system, rather than the slippage causing the underground pipes to disconnect.

The Respondent disputed the validity of the claim, asserting that it had maintained the underground drainage system and further, that when it had been notified of problem with the system, it had taken corrective action within a reasonable time. The Respondent further asserted that the Claimants' property was situated in a natural drainage course.

The Respondent's expert, the recently retired regional engineer for the Respondent's Abandoned Mine Lands program, testified that he had conducted site evaluations on the Claimants' property and observed ground movement on their property. The purpose of the underground drainage system was to collect water from the abandoned mine and divert it to the closest natural drainage course. The underground system was designed to decant the mine pool in the underground mine workings, to relieve the head on the mine and reduce the risk associated with a sudden and uncontrolled discharge or blowout of mine waters. He further testified that the Claimants' property is situated within a natural drainage course, with stormwaters from the hillside above the Claimants' property flowing toward the bench above the property. There is no toe ditch along the bench to collect water runoff and divert it away from their property. Slippage is a common occurrence in the Claimants' neighborhood; the Respondent's witness testified that the entire hillside above the Claimants' property and other neighbors' properties had been undermined with landslides and slippage. At the time of the broken underground pipe, the Respondent's witness was onsite for the excavation and repairs. He noted that there was water backed up within the drainage system, contrary to the design of the system, which would be caused by something clogging up the system. Moreover, there was both a longitudinal and lateral displacement of the pipes; this, too, was caused by ground movement. He opined that the underground pipes were pulled apart by the ground movement. When the pipes were dislocated, the pipes began to take on soil that occluded the pipes and prevented them from functioning properly. He further testified that once the system was repaired and the occluding soil was flushed out, the system immediately resumed the decanting process. The Respondent's witness, who inspected the broken pipes and the contents of the pipes, noted that only soil, dirt and mud were present in the pipes. There were no signs of any buildup of iron, metal, byproducts of the oxidation process or other buildup from the mine water present in the pipes.

The Legislative Claims Commission, while sympathetic to the Claimants' situation, was constrained to apply the law, and found that the Respondent was duly notified by the Claimants of the broken pipe and took corrective action within a reasonable time. The Claims Commission further found that the record demonstrated that the proximate cause of the Claimants' damages were due to ground slippage that originated above their property and not on the alleged failure of the Respondent to properly maintain the underground drainage system.

AMOUNT CLAIMED: \$200,00.00

AMOUNT AWARDED: \$0.00



**CC-20-0321 POMEROY IT SOLUTIONS SALES, INC. v. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Claimant brought this claim to recover \$2,625.00 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent denied the validity of the claim and asserted that the invoices had been paid previously as documented by the Respondent's exhibits evidencing payment of the invoice. The Legislative Claims Commission found that the invoice had already been paid and accordingly, should be denied.

AMOUNT CLAIMED: \$2,625.00

AMOUNT AWARDED: \$0.00

**CC-20-0304 POMEROY IT SOLUTIONS SALES, INC. v. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Claimant brought this claim to recover \$3,001.60 for professional services provided pursuant to a contract with the Respondent as documented by unpaid invoices. The Respondent denied the validity of the claim and asserted that the invoices had been paid previously as documented by the Respondent's exhibits evidencing payment of the invoice. The Legislative Claims Commission found that the invoice had already been paid and accordingly, should be denied.

AMOUNT CLAIMED: \$3,001.60

AMOUNT AWARDED: \$0.00

**CLAIM AGAINST THE DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**CC-21-0225 PETTRY FUNERAL HOMES, LLC. v. DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

In filing this claim, the Claimant sought to be paid \$1,000.00 from the Respondent's Indigent Burial Fund. The Respondent asserted that the Claimant was entitled to this payment and that there were funds available to pay the claim and the Claimant's claim was paid from the Indigent Burial Fund. Since the claim was paid, the Claimant's claim was rendered moot.

The Legislative Claims Commission found that the claim presented by the Claimant was now moot inasmuch as it was paid by the Respondent from funds available in the Indigent Burial Fund.

AMOUNT CLAIMED: \$1,000.00

AMOUNT AWARDED: \$0.00

**CLAIMS AGAINST THE DIVISION OF CORRECTIONS AND REHABILITATION**

**CC-19-1495 SCOTT BAGENT v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of property he alleged was lost while incarcerated at Mount Olive Correctional Complex. The Claimant sent a pair of state-issued gym shorts to the

Laundry Department. The shorts were apparently lost and not returned to the Claimant. He alleged that the cost of replacing the shorts was wrongfully deducted from his inmate account.

The Respondent disputed the validity of the claim. The Respondent asserted that the claim was moot inasmuch as the shorts had been located and the monies were refunded to the Claimant's inmate account.

The Legislative Claims Commission found that the claim presented by the Claimant was now moot inasmuch as his allegedly lost property was found and returned to him.

AMOUNT CLAIMED: \$20.00

AMOUNT AWARDED: \$0.00

#### **CC-20-0581 TONY BENNETT v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of certain personal property that he alleged was lost while he was under the care of the Respondent. At the hearing, the Claimant testified that he was arrested and taken to the Southern Regional Jail where his personal property was inventoried and stored. When he was released, he learned that his property, including his wallet and jewelry, was missing. The Claimant did not file any grievances concerning the lost property. The Claimant placed a value of \$470.00 on his missing property but did not file any supporting documentation.

The Respondent denied the validity of the claim asserting that the Claimant failed to file any grievances regarding his lost property and accordingly failed to exhaust his administrative remedies before filing his claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of his failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Legislative Claims Commission found that the West Virginia Prisoner Litigation Reform Act controlled the disposition of this claim. Under this Act, the Claimant is required to exhaust all administrative remedies set forth in the Act before any claim may be filed with the Claims Commission. As the Claimant failed to comply with the provisions of the Prisoner Litigation Reform Act, the Claims Commission is barred from exercising jurisdiction over the Claimant's claim.

AMOUNT CLAIMED: \$470.00

AMOUNT AWARDED: \$0.00

#### **CC-19-1506 MARK BEST v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of his television which he alleged was damaged during a shakedown at Northern Correctional Center. At the hearing, the Claimant testified that on September 5, 2019, he was working at his prison job when a shakedown was conducted in his cell. When he returned to his cell, he discovered that his television did not work. He alleged that it was damaged by an employee of the Respondent conducting the shakedown. He testified that he was not present in his cell during the shakedown and did not have any evidence that his television was mishandled by the officer conducting the shakedown. The Claimant placed a value of \$224.74 on the damaged television.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the evidence presented did not support a finding that the Claimant's television was damaged during the shakedown.

The Legislative Claims Commission found that the Claimant failed to satisfy his burden of proof and did not provide sufficient evidence to establish that the Respondent was liable for the damage to the Claimant's television.

AMOUNT CLAIMED: \$224.74

AMOUNT AWARDED: \$0.00

**CC-19-1547 DAVID D. BUZZARD, JR. v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover funds which he alleged were wrongfully deducted from his inmate account. At the hearing, the Claimant testified that he had filed several lawsuits in federal court concerning the conditions of his imprisonment. He owed the courts money for his filing fees; a payment system had been set up whereby a monthly payment from his inmate account was made to the Court by the Respondent's accounting office. The Claimant alleged that following his receipt of a settlement check, the Respondent's accounting office deducted too much money from his account in payment towards his court fees. The Claimant's grievances were denied; he sought to be reimbursed \$898.37.

The Respondent disputed the validity of the claim, asserting that its accounting office properly followed its policies. The Respondent's policies allow for up to 40% of an inmate's monthly income to be used to satisfy an inmate's debts. The Respondent further asserted that the payment made to pay to fully satisfy the Claimant's debts to the federal court was in fact less than the 40% permitted amount.

The Legislative Claims Commission found that the Claimant's outstanding debts were satisfied and paid in full. The Claims Commission further found that there was no moral obligation to reimburse the Claimant for these monies where reimbursement would result in the Claimant's debts being paid, his financial obligations would be borne by the taxpayers of West Virginia and he would still retain the monies in his account.

AMOUNT CLAIMED: \$898.37

AMOUNT AWARDED: \$0.00

**CC-19-1431 KEVIN CHAPMAN v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property he alleged was lost while he was incarcerated at Mount Olive Correctional Center. At the hearing, the Claimant testified that on July 10, 2018, he was transferred to the segregation unit along with his cellmate. He alleged that his personal property was damaged by a correctional officer. He did not witness any employee allegedly mishandling his property. He learned upon his return to general population that some of his personal property items were damaged or lost. He filed a grievance, which was ultimately denied as untimely. He placed a value of \$1,234.51 on the damaged and missing property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimant failed to timely comply with the grievance system and

accordingly failed to timely exhaust his administrative remedies before filing his claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of his failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Legislative Claims Commission found the Claimant had filed a claim in 2018 that addressed the identical events of his July 10, 2018 transfer to segregation. The Claims Commission dismissed his 2018 claim because of the Claimant's failure to timely exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act. The Claims Commission further found that the doctrine of *res judicata* operated to bar the Claimant's 2019 claim based on the same facts and circumstances of the previously dismissed 2018 claim.

AMOUNT CLAIMED: \$1,234.51

AMOUNT AWARDED: \$0.00

#### **CC-19-1389 HA'SON CLEVELAND v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of property he alleged was lost by the Respondent's employees. At the hearing, the Claimant testified that when he was released from segregation at Mount Olive and returned to general population, he discovered that his Xbox 360 game system, a hard drive for the Xbox, a wireless controller for the Xbox, fifteen (15) CD's, a video game, sneakers and clothing items were missing. He filed a grievance concerning the lost property which was ultimately denied. The Claimant placed a value of \$966.55 on the lost property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that some of the missing items had been seized as contraband because they contained unauthorized content. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the remainder of the items were not in the control and custody of the Respondent.

The Legislative Claims Commission found that the Claimant's Xbox game system and accessories were properly seized and destroyed as contraband and that the Claimant's CD's were mailed out to his family in accordance with the Respondent's policies. The Claims Commission further found that the Claimant did not establish that the clothing items had been delivered to the Respondent so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant.

AMOUNT CLAIMED: \$966.55

AMOUNT AWARDED: \$0.00

#### **CC-20-0190 ROBERT CUMMINGS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property he alleged was lost while he was incarcerated. At the hearing, the Claimant testified that he was issued two state locks to lock and secure his personal property in the state issued property lockers within his cell. He alleged that on or around April 3, 2018, other inmates broke into his property locker, breaking the locks and stealing some of his personal property items. A search of the facility was conducted but the Claimant's property was not located. The Claimant was issued two new locks; he placed a value of \$336.28 on his stolen property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly discharged its duty to the Claimant by providing him with sufficient means to lock and secure his personal property. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the Claimant was responsible for securing his personal property and he retained control over his property.

The Legislative Claims Commission found that the Respondent properly and reasonably discharged its duty to the Claimant to provide a means of storage and security for his personal property items. The Claims Commission further found that the Claimant did not establish that the items had been delivered to the Respondent and in the Respondent's physical custody so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant.

AMOUNT CLAIMED: \$336.28

AMOUNT AWARDED: \$0.00

#### **CC-20-0201 ROBERT CUMMINGS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the costs related to the purchase of additional locks for his state issued property storage lockers. At the hearing, the Claimant testified that his personal property had been secured in locked storage lockers in his cell when other inmates broke the locks and stole his property. A set of two locks was re-issued to the Claimant and he was charged \$20.60 for the replacement locks.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimant was charged for the second set of locks in accordance with its operational procedures concerning replacement of state-issued property.

The Legislative Claims Commission found that the Respondent properly charged the Claimant for the replacement of state-issued property in accordance with its longstanding policy directives and operational procedures.

AMOUNT CLAIMED: \$20.60

AMOUNT AWARDED: \$0.00

#### **CC-20-0210 JOSHUA T. DEITZ v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover for personal injuries that he alleged were the result of the Respondent's negligence while he was incarcerated at Huttonsville Correctional Center. At the hearing, the Claimant testified that on May 4, 2018, he sustained personal injuries while exiting the Respondent's transport van after returning to the facility from a medical appointment.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that because insurance was available to cover the Claimant's claim, jurisdiction before the Legislative Claims Commission was precluded by West Virginia Code §14-2-14(5).

The Legislative Claims Commission found that pursuant to West Virginia Code §14-2-14(5) the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim.

AMOUNT CLAIMED: Unspecified

AMOUNT AWARDED: \$0.00

**CC-20-0214 JOSHUA DIETZ v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of lost property while he was incarcerated. At the hearing, the Claimant testified that his property was lost when he was transferred from Pruntytown Correctional Center to Huttonsville Correctional Center. His lost property included a Nintendo game system and two pairs of sneakers. The Claimant filed a grievance but did not complete the appeals process in a timely manner and the grievance was ultimately denied. The Claimant placed a value of \$400.00 on the lost property.

The Respondent denied the validity of the claim asserting that the Claimant failed to comply with the grievance procedures and also failed to timely exhaust his administrative remedies before filing his claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of his failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Legislative Claims Commission found that the West Virginia Prisoner Litigation Reform Act controlled the disposition of this claim. Under this Act, the Claimant is required to exhaust all administrative remedies within the timeframes set forth in the Respondent's Policy Directives and the Act before any claim may be filed with the Claims Commission. As the Claimant failed to comply with the provisions of the Prisoner Litigation Reform Act, the Claims Commission is barred from exercising jurisdiction over the Claimant's claim.

AMOUNT CLAIMED: \$400.00

AMOUNT AWARDED: \$0.00

**CC-19-1303 MIGUEL DELGADO v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property he alleged was lost by the Respondent while incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that one of his magazines was improperly seized because it did not contain his name and identification number. He testified that the magazine was received in an envelope that originally had his name on it but was discarded. He testified that he wrote his name and identification number on the bottom of the magazine. The Claimant's grievance was ultimately denied; he placed a value of \$25.00 on his claim.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that its employees properly confiscated the magazine as contraband.

The Legislative Claims Commission found that the evidence in the record demonstrated that the Claimant's magazine was properly confiscated as contraband. The Claims Commission further found that the Claimant failed to meet his burden of proof in order to prevail on his claim.

AMOUNT CLAIMED: \$25.00

AMOUNT AWARDED: \$0.00

**CC-19-1524 KEITH DEMENT v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of lost personal property. At the hearing, the Claimant testified that on October 13, 2019, he discovered that items from his personal property were missing from his cell. He reported the property as stolen; an investigation determined that the only people with access to the Claimant's cell were the Claimant and his cellmate. The Claimant believed that his personal property was stolen by his cellmate but the property was never recovered. The Claimant filed a grievance which was ultimately denied. The Claimant placed a value of \$159.57 on the stolen property but did not submit any documentation to support that value.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. Further, the Respondent asserted that there is no duty to safeguard an inmate's property from theft by other inmates when the property is in the control of the inmate in the inmate's cell and not in the control or custody of the Respondent.

The Legislative Claims Commission found that the property was in the Claimant's cell at the time of the alleged theft and the property had not been delivered to the custody of the Respondent. The Claims Commission further found that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. The Claims Commission further found that the Respondent cannot be held liable for the loss of an inmate's property when the loss is a result of theft by another inmate.

AMOUNT CLAIMED: \$159.57

AMOUNT AWARDED: \$0.00

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**CC-21-0458 KEITH DEMENT v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of lost personal property. This Notice of Claim reiterated all of the same facts and issues that were raised in the Claimant's 2019 claim that had already been heard by the Legislative Claims Commission. At the hearing, the Claimant testified that on October 13, 2019, he discovered that items from his personal property were missing from his cell. The Claimant believed that his personal property was stolen by his cellmate but the property was never recovered. The Claimant filed a grievance which was ultimately denied. The Claimant placed a value of \$159.57 on the stolen property but did not submit any documentation to support that value.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that this claim was identical to the claim that the Claimant had filed in 2019. The Respondent further asserted that because the Legislative Claims Commission had issued an Opinion, the Claimant's 2021 claim alleging the same facts and same losses was barred by the doctrine of *res judicata*.

The Legislative Claims Commission found that the Claimant's 2019 claim had been previously fully litigated and heard by the Claims Commission, having issued its Opinion denying the Claimant's claim. The Claims Commission found that the doctrine of *res judicata* served to bar the 2021 claim as the issues had been previously litigated and resolved.

AMOUNT CLAIMED: \$159.57

AMOUNT AWARDED: \$0.00

**CC-21-0076 BILLY EVANS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of lost personal property. At the hearing, the Claimant alleged that the Respondent's employees failed to properly pack, inventory and store his personal property when he was transferred to punitive segregation at Mount Olive Correctional Complex. An investigation into the Claimant's allegations revealed that the Claimant's property was stolen; none of his property was located following a search. The Claimant filed a grievance which was ultimately denied. The Claimant placed a value of \$831.44 on the stolen property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. Further, the Respondent asserted that there is no duty to safeguard an inmate's property from theft by other inmates when the property is in the control of the inmate in the inmate's cell and not in the control or custody of the Respondent.

The Legislative Claims Commission found that the property was in the Claimant's cell at the time of the alleged theft and the property had not been delivered to the custody of the Respondent. The Claims Commission further found that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. The Claims Commission further found that the Respondent cannot be held liable for the loss of an inmate's property when the loss is a result of theft by another inmate.

AMOUNT CLAIMED: \$831.44

AMOUNT AWARDED: \$0.00

**CC-20-0702 CODEY FOSTER v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of certain personal property that he alleged was damaged while he was under the care of the Respondent. At the hearing, the Claimant testified that a shelf within his cell containing personal property items, including his eyeglasses, was tipped over during a cell search. As a result, these items were damaged. He testified that he reported the damage and then filled out a grievance form. He testified that he did not complete the grievance appeal process because he was waiting for a reply to the initial grievance. He did not submit any exhibits with his Notice of Claim; he placed a value of \$615.00 on his damaged property.

The Respondent denied the validity of the claim asserting that the Claimant failed to file any grievances regarding his lost property and accordingly failed to exhaust his administrative remedies before filing his claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of his failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Legislative Claims Commission found that the West Virginia Prisoner Litigation Reform Act controlled the disposition of this claim. Under this Act, the Claimant is required to exhaust all administrative remedies set forth in the Act before any claim may be filed with the Claims Commission. As the Claimant failed to comply with the provisions of the Prisoner Litigation



Reform Act, the Claims Commission is barred from exercising jurisdiction over the Claimant's claim.

AMOUNT CLAIMED: \$615.00

AMOUNT AWARDED: \$0.00

**CC-20-0259 ARON FREELAND v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property he alleged was lost while he was incarcerated. At the hearing, the Claimant testified that on February 6, 2020, he left his cell to use the shower. When he returned to his cell, he discovered that his watch was missing. He testified that he had two storage boxes for his personal property but only one lock. He further testified that he did not put the watch in a locked storage box when he went to the shower room. He believed his watch was stolen by another inmate. The Claimant's grievance was denied because he failed to secure the watch in his locked storage box in his cell. The Claimant placed a value of \$43.81 on his watch.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly discharged its duty to the Claimant by providing him with sufficient means to lock and secure his personal property. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the Claimant was responsible for securing his personal property and he retained control over his property.

The Legislative Claims Commission found that the Respondent properly and reasonably discharged its duty to the Claimant to provide a means of storage and security for his personal property items. The Claims Commission further found that the Claimant did not establish that the items had been delivered to the Respondent and in the Respondent's physical custody so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant. The Claims Commission further found that the Respondent cannot be held liable to the Claimant for personal property stolen by another inmate.

AMOUNT CLAIMED: \$43.81

AMOUNT AWARDED: \$0.00

**CC-20-0618 ARON FREELAND v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant brought this claim against the Respondent alleging that the Respondent had violated his state and federal constitutional rights. The Respondent sought to dismiss the claim and asserted that jurisdiction before the Legislative Claims Commission was improper pursuant to West Virginia Code §14-2-14(5). Because the Claimant's allegations could be maintained in a state or federal court, the Claims Commission did not have the requisite jurisdiction to preside over the Claimant's claim. The Legislative Claims Commission found that West Virginia Code §14-2-14(5) barred it from hearing the Claimant's claim as the Claimant's claim could be maintained in either a state or federal court.

AMOUNT CLAIMED: \$1,500.00

AMOUNT AWARDED: \$0.00

**CC-20-0620 ARON FREELAND v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant brought this claim against the Respondent alleging that the Respondent had violated his state and federal constitutional rights. The Respondent sought to dismiss the claim and asserted that jurisdiction before the Legislative Claims Commission was improper pursuant to West Virginia Code §14-2-14(5). Because the Claimant's allegations could be maintained in a state or federal court, the Claims Commission did not have the requisite jurisdiction to preside over the Claimant's claim. The Legislative Claims Commission found that West Virginia Code §14-2-14(5) barred it from hearing the Claimant's claim as the Claimant's claim could be maintained in either a state or federal court.

AMOUNT CLAIMED: \$20,000.00

AMOUNT AWARDED: \$0.00

**CC-20-0644 ARON FREELAND v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant brought this claim against the Respondent alleging that the Respondent had violated his state and federal constitutional rights. The Respondent sought to dismiss the claim and asserted that jurisdiction before the Legislative Claims Commission was improper pursuant to West Virginia Code §14-2-14(5). Because the Claimant's allegations could be maintained in a state or federal court, the Claims Commission did not have the requisite jurisdiction to preside over the Claimant's claim. The Legislative Claims Commission found that West Virginia Code §14-2-14(5) barred it from hearing the Claimant's claim as the Claimant's claim could be maintained in either a state or federal court.

AMOUNT CLAIMED: \$40,000.00

AMOUNT AWARDED: \$0.00

**CC-20-0688 ARON FREELAND v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant brought this claim against the Respondent alleging that the Respondent had violated his state and federal constitutional rights. The Respondent sought to dismiss the claim and asserted that jurisdiction before the Legislative Claims Commission was improper pursuant to West Virginia Code §14-2-14(5). Because the Claimant's allegations could be maintained in a state or federal court, the Claims Commission did not have the requisite jurisdiction to preside over the Claimant's claim. The Legislative Claims Commission found that West Virginia Code §14-2-14(5) barred it from hearing the Claimant's claim as the Claimant's claim could be maintained in either a state or federal court.

AMOUNT CLAIMED: \$40,000.00

AMOUNT AWARDED: \$0.00

**CC-18-1504 TROY GOODMAN v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property he alleged was lost while he was incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that he had a shelving unit in his cell. He returned to his cell one day to find the shelving unit missing; it was returned to him at a later time. The Claimant sought an award in the amount of \$75.00 for the shelving unit and \$25.00 reimbursement for his expenses related to the filing of the claim.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimant's claim was moot because the shelving unit had been located and returned to the Claimant. The Respondent further asserted that the Claimant was not entitled to reimbursement for his expenses related to the filing of his claim.

The Legislative Claims Commission found that the claim presented by the Claimant was now moot inasmuch as his allegedly lost property was found and returned to him. The Claims Commission further found that the reimbursement of copies, postage and other expenses related to the filing of a claim with the Legislative Claims Commission is not a moral obligation of the State of West Virginia and therefore, recovery for those expenses is not permitted.

AMOUNT CLAIMED: \$100.00

AMOUNT AWARDED: \$0.00

### **CC-20-0193 TYLER HOWARD GRAENING v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this action to recover monies which he allegedly were wrongfully deducted from his inmate account. At the hearing, the Claimant testified that he sought medical treatment for a recurring ear issue on eleven separate occasions. He was charged a co-pay for each appointment. The Claimant testified that he was overcharged for ten of the visits, since he believed these were follow-up visits. He further testified that these appointments were scheduled at his request and they were not made at the conclusion of his previous visits. His grievance was denied; he submitted invoices in the amount of \$40.00.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly followed its policy directives concerning medical care for inmates and that the Claimant had been charged for those visits consistent with policy directives.

The Legislative Claims Commission found that the evidence in the record demonstrated that each of the Claimant's medical appointments were new visits, scheduled at the Claimant's request and accordingly did not qualify as follow-up visits. The Claims Commission further found that the Claimant was properly charged a co-pay for each of his medical visits.

AMOUNT CLAIMED: \$40.00

AMOUNT AWARDED: \$0.00

### **CC-21-0037 HOWARD C. JENNER v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property that he alleged was damaged. At the hearing, the Claimant testified that he had a Super Nintendo Console listed on his property inventory card and in his cell. The gaming system broke and the Claimant threw it away. He then ordered a PlayStation game console which is in storage at the State Shop. The Claimant testified that the Respondent will not release the new gaming system to him because the Nintendo game system is still listed on his property inventory cards. Pursuant to the Respondent's policies and procedures, an inmate is permitted to have only one gaming system in their inventory and possession. The Claimant testified that he advised his unit manager that the Nintendo system was broken and thrown away and accordingly, it should be removed from his property card. The Claimant did not submit any documentation to demonstrate that the Nintendo system was

damaged and thrown away. The Claimant filed a grievance which was ultimately denied. He placed a value of \$86.89 on the PlayStation game system.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that its employees followed the appropriate policies and directives that were in place for the possession of personal property items, including gaming systems.

The Legislative Claims Commission found that the evidence before it was insufficient to establish that the Claimant's Nintendo game system had been disposed of in accordance with the Respondent's policies so as to remove it from the Claimant's inventory cards. The Claims Commission further found that the Claimant failed to satisfy his burden of proof to allow him to take possession of the PlayStation gaming system. The Claims Commission further found that the Respondent properly discharged its duties and responsibilities for the storage of inmate property.

AMOUNT CLAIMED: \$86.89

AMOUNT AWARDED: \$0.00

**CC-20-0421 WILLIAM M. JOHNSON v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property he alleged was lost while he was incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that he ordered and paid for several ink cartridges to be delivered to him at Mount Olive; however, he never received the ink cartridges. He further testified that his sister obtained tracking information for the package which indicated that the ink cartridges had been delivered to an unspecified post office box in Mount Olive, West Virginia. The ink cartridges were never received by the State Shop. The Claimant's grievance was ultimately denied. He placed a value of \$100.00 on the lost ink cartridges.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that an incorrect shipping address was used and there was no documentation that the ink cartridges were received by the prison. As such, the Respondent asserted there was no bailment relationship between the Claimant and the Respondent.

The Legislative Claims Commission found that the Claimant failed to establish that the ink cartridges had been delivered to the Respondent so as to create a no bailment relationship between the Claimant and the Respondent.

AMOUNT CLAIMED: \$100.00

AMOUNT AWARDED: \$0.00

**CC-20-0564 KENNETH HENRY KNIGHT v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of property that was lost while he was incarcerated at Tygart Valley Regional Jail. At the hearing, the Claimant testified that his photo collection, containing over 330 photographs, had been lost. He acknowledged that he was well over the limit of five photographs. The Claimant testified that he had signed an authorization to have the photographs released to his wife. He alleged that an unknown number of photographs could be missing. He placed a value of twenty-five cents on each photograph.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimant had exceeded the allowable limit of photographs per inmate. The Respondent further asserted that it had made arrangements with the jail's front office to have the photographs ready for pickup by the Claimant's wife. Following the hearing, the Respondent informed the Legislative Claims Commission that the photographs had been picked up by the Claimant's wife and the issues presented in the Claimant's claim were now moot.

The Legislative Claims Commission found that the claim presented by the Claimant was now moot inasmuch as his allegedly lost photographs were located and his wife had picked them up from the jail's front office.

AMOUNT CLAIMED: \$82.50

AMOUNT AWARDED: \$0.00

#### **CC-19-0012 ERIC MINDA v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this action to recover the value of property he alleged was lost while he was incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that when he was released from segregation, he discovered that some of his personal property was missing. He alleged that when he was transferred to segregation, the property in his cell was left unattended and as a result, it was stolen by other inmates. His grievance was ultimately denied. He placed a value of \$894.72 on his missing property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that its investigation revealed that the Claimant rented out his personal property to other inmates and his property claimed as missing was found in the possession of other inmates. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the Claimant's property had not been delivered to the Respondent and the Respondent was not in control or custody of the Claimant's property.

The Legislative Claims Commission found that the evidence before it demonstrated that the Claimant's property was not situated in his cell at the time he was taken to segregation. The Claims Commission further found that the Respondent did not have sufficient physical custody of the Claimant's property to establish a bailment situation and that the Respondent properly discharged its duty to the Claimant with respect to his personal property.

AMOUNT CLAIMED: \$894.72

AMOUNT AWARDED: \$0.00

#### **CC-21-0121 RODGER D. MITCHELL v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of commissary that was damaged while he was incarcerated at Huttonsville Correctional Center. At the hearing, the Claimant testified that he was sent to punitive segregation. Pursuant to the Respondent's policies on food items, he was not permitted to take his food items to segregation and his food items were destroyed. He testified that he believed he had the option to mail his food items to his family and he was not provided with that option. He placed a value of \$13.00 on his food items.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it complied with its own policy directives concerning the storage of food items, and in particular, perishable food items. These policy directives mandate that no food items be stored longer than three days for safety and sanitary reasons; after three days, these items are confiscated and destroyed. Furthermore, mailing out food items to family is not an option.

The Legislative Claims Commission found that the Claimant failed to make the necessary arrangements for the disposal of his food items as required and accordingly, his food items were properly confiscated and destroyed in accordance with the Respondent's established policies.

AMOUNT CLAIMED: \$13.00

AMOUNT AWARDED: \$0.00

#### **CC-19-1517 RODNEY MOATS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of property he alleged was damaged while incarcerated at Northern Correctional Center. At the hearing, the Claimant testified that on October 21, 2019, he was at work in the facility's kitchen when a shakedown on his pod occurred. He returned to his cell and discovered that the screen on his television was shattered. He reported the damage and then threw the television away. The Claimant placed a value of \$187.00 on the television.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that its investigation revealed that the outlet in the Claimant's cell had been burnt and ripped out of the wall; the damage to the Claimant's television was caused by a power surge due to the condition of the outlet. The Respondent further asserted that the Claimant threw the television away in violation of the Respondent's policy directives concerning inmate personal property.

The Legislative Claims Commission found that the Claimant did not establish that his television set was damaged as a result of the shakedown in his pod. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant.

AMOUNT CLAIMED: \$187.00

AMOUNT AWARDED: \$0.00

#### **CC-19-1288 BRIAN MORGAN v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of lost personal property while incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant alleged that when he returned to his cell after a meal, he discovered that the 320gb hard drive for his Xbox 360 was missing. He alleged that another inmate entered his cell and stole the hard drive. The Claimant filed a grievance which was ultimately denied. The Claimant placed a value of \$66.89 on the stolen hard drive.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. Further, the Respondent asserted that there is no duty to safeguard an inmate's property from theft by other inmates when the property is in the control of the inmate in the inmate's cell and not in the control or custody of the Respondent.

The Legislative Claims Commission found that the property was in the Claimant's cell at the time of the alleged theft and that the Respondent did not have physical custody of the hard drive. The Claims Commission further found that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. The Claims Commission further found that the Respondent cannot be held liable for the loss of an inmate's property when the loss is a result of theft by another inmate.

AMOUNT CLAIMED: \$66.89

AMOUNT AWARDED: \$0.00

#### **CC-18-1376 GARLAND MURRAY v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property he alleged was lost while incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that when he was transferred from punitive segregation to the general population, he discovered that certain items of his personal property were lost, including glasses, clothing items, shoes, religious materials, a CD player and earphones. The Claimant's grievance was ultimately denied. He placed a value of \$2,000.00 on his missing property but did not submit any receipts or other supporting documentation.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent's witness testified that the Claimant's personal property was properly inventoried, packed and stored while he was in segregation. The Claimant's property inventory cards demonstrated that he had in fact received most of the property he claimed as lost in his Notice of Claim. The witness further testified that the facility's investigation revealed that the Claimant had altered his property inventory cards to reflect additional items in his inventory, which were then listed as lost items in his Notice of Claim. Additionally, some of the items the Claimant listed as lost were confiscated as contraband and it was determined these items actually belonged to another inmate.

The Legislative Claims Commission found that the Claimant improperly and fraudulently altered his personal property forms in violation of the Respondent's policies. The Claims Commission further found that no awards will be recommended in any claim based on fraudulent grounds. The Claims Commission further found that the Respondent properly discharged its duty to the Claimant in handling his personal property.

AMOUNT CLAIMED: \$2,000.00

AMOUNT AWARDED: \$0.00

#### **CC-21-0122 PAUL NEWLON v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property he alleged was lost while incarcerated at St. Mary's Correctional Center. At the hearing, the Claimant testified that he was using his headphones when he was called for breakfast. He placed the headphones in a bowl on top of his lockbox and went to eat. He did not put the headphones in his lockbox and did not secure the lockbox with the provided lock. When the Claimant returned to his cell, he discovered that his headphones were missing. He believed that his headphones were stolen by other inmates. He filed a grievance which was ultimately denied. He placed a value of \$36.89 on the missing headphones.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly discharged its duty to the Claimant by providing him with sufficient means to lock and secure his personal property. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the Claimant was responsible for securing his personal property and he retained control over his property.

The Legislative Claims Commission found that the Respondent properly and reasonably discharged its duty to the Claimant to provide a means of storage and security for his personal property items. The Claims Commission further found that the Claimant did not establish that the items had been delivered to the Respondent and in the Respondent's physical custody so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant.

AMOUNT CLAIMED: \$36.89

AMOUNT AWARDED: \$0.00

**CC-21-0156 TRAVIS R. NORWOOD v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover monies he alleged were owed to him by the Respondent. At the hearing, the Claimant testified that he had placed a commissary order from the Fresh Favorites program. Between the time he placed the order and the order was delivered, the Claimant was taken to segregation and did not receive the Fresh Favorites order. He alleged that he should receive a refund for his order since he was unable to accept it while he was in segregation. The Claimant's grievance was ultimately denied; he placed a value of \$44.25 on his order.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that pursuant to its policies and programs, participation in the Fresh Favorites program is a privilege; inmates in segregation are not eligible to order or receive items. The program is administered by a third party vendor and all items must be prepaid.

The Legislative Claims Commission found that participation in the Fresh Favorites program, operated in conjunction with Aramark, is a privilege only for inmates in general population pods. The Claims Commission found that the Claimant's Fresh Favorites order was handled appropriately on the day of delivery in accordance with the Respondent's policies. The Claimant failed to satisfy the burden of proof and accordingly, no liability can be assessed against the Respondent.

AMOUNT CLAIMED: \$44.25

AMOUNT AWARDED: \$0.00

**CC-21-0187 TRAVIS NORWOOD v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant brought this claim alleging that the Respondent's employees embezzled funds from his inmate account at Mount Olive Correctional Complex. At the hearing, the Claimant testified that he believed an unauthorized withdrawal in the amount of \$12.45 for legal copies had been made from his inmate account. His grievance concerning the withdrawal was denied.



The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that jurisdiction before the Legislative Claims Commission was improper inasmuch as the State of West Virginia has insurance coverage for this claim. The Respondent further asserted that the Claimant's allegations could be maintained in the courts of the State and therefore the claim should be dismissed.

The Legislative Claims Commission found that pursuant to West Virginia Code §14-2-14(5) the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim.

AMOUNT CLAIMED: \$12.45

AMOUNT AWARDED: \$0.00

**CC-20-0497 JOSEPH W. NUZUM v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property that he alleged was wrongfully confiscated by the Respondent. At the hearing, the Claimant testified he purchased a contraband hard drive for his Xbox from another inmate. On September 5, 2019, a shakedown was conducted on his pod at Northern Correctional Center; the officers were searching hard drives for impermissible content. The Claimant was caught erasing pornographic materials and photographs from his hard drive. Consequently, his Xbox and hard drive were confiscated as contraband. The Claimant alleged that he was not given the opportunity to erase the content from the hard drive; he believed that other inmates had been allowed to erase impermissible content. The Claimant's grievance was ultimately denied because he had violated the Respondent's policies. He placed a value of \$390.56 on his personal property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent's witness testified that the Claimant and ten other inmates were found to have contraband stored on their hard drives in violation of the Respondent's policies. None of the eleven charged with disciplinary violations were permitted to erase their hard drives.

The Legislative Claims Commission found that the Claimant violated the Respondent's policies and such violation led to the confiscation of his property. The Claims Commission further found that the Claimant and the other inmates in his situation were treated similarly and in accordance with the Respondent's policies and procedures.

AMOUNT CLAIMED: \$390.56

AMOUNT AWARDED: \$0.00

**CC-20-0299 JORDAN RAUCH v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of certain personal property that he alleged was lost while incarcerated at Mount Olive Correctional Complex. AT the hearing, the Claimant testified that he was taken to segregation for a rules violation on March 24, 2020. He later learned that some of his personal property items were missing. The Claimant filed an initial level grievance but he testified that he did not timely file his appeals because of insufficient funds in his inmate trust account. He mailed his appeals outside the permitted time frames; his grievance was ultimately denied as untimely. He did not submit any exhibits with his Notice of Claim; he placed a value of \$350.00 on his damaged property.

The Respondent denied the validity of the claim asserting that the Claimant failed to file any grievances regarding his lost property and accordingly failed to timely exhaust his administrative remedies before filing his claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of his failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Legislative Claims Commission found that the West Virginia Prisoner Litigation Reform Act controlled the disposition of this claim. Under this Act, the Claimant is required to exhaust all administrative remedies set forth in the Act before any claim may be filed with the Claims Commission. As the Claimant failed to comply with the provisions of the Prisoner Litigation Reform Act, the Claims Commission is barred from exercising jurisdiction over the Claimant's claim.

AMOUNT CLAIMED: \$350.00

AMOUNT AWARDED: \$0.00

**CC-18-0833 MATTHEW REED v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this action to be reimbursed for postage and mailing costs that he alleged were improperly charged against his inmate account while he was incarcerated at Huttonsville Correctional Center. At the hearing, the Claimant testified that he believed he was entitled to have all of his mail, including his legal mail, mailed out from the facility at no charge to him because he qualified for indigent status. Over a period of six (6) months, the Claimant was assessed more than \$80.00 in postage costs. He filed several grievances, which were ultimately denied.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly followed its policy directives concerning inmate mail. The Respondent's witness testified that inmates are charged for postage once they have reached the limit of ten letters each month. A ledger is maintained in the mail office for each inmate that details all incoming and outgoing mail along with any assessed postage costs. Each month, an inmate's account is reviewed to determine whether the inmate qualifies for indigent status; an inmate with less than \$5 in his voluntary savings accounts for at least thirty (30) days qualifies for indigent status. The Claimant's voluntary savings account had sufficient funds in it for the months he was assessed postage.

The Legislative Claims Commission found that the Respondent properly and reasonably discharged its duty to the Claimant regarding outgoing mail, both legal mail and personal mail. The Claims Commission further found that the Respondent did not restrict the Claimant's access to postage or writing materials for any outgoing privileged or legal mail. The Claims Commission further found that the Claimant was properly charged for postage since he did not qualify as an indigent inmate.

AMOUNT CLAIMED: \$80.00

AMOUNT AWARDED: \$0.00

**CC-19-0879 MATTHEW REED v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of property he alleged was lost while he was incarcerated at Stevens Correctional Center. At the hearing, the Claimant testified that on March

13, 2019, he was transferred to the detention unit. He testified that he believed that his commissary was stolen by another inmate between the time he was transferred to detention and the time the Respondent's employees packed up his personal property. His grievance was denied; he placed a value of \$53.10 on his missing property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly discharged its duty to the Claimant by providing him with sufficient means to lock and secure his personal property. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the Claimant was responsible for securing his personal property and he retained control over his property.

The Legislative Claims Commission found that the Respondent properly and reasonably discharged its duty to the Claimant to provide a means of storage and security for his personal property items. The Claims Commission further found that the Claimant did not establish that the items had been delivered to the Respondent and in the Respondent's physical custody so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant.

AMOUNT CLAIMED: \$53.10

AMOUNT AWARDED: \$0.00

#### **CC-21-0294 HANK REYNOLDS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property which he alleged was lost at Huttonsville Correctional Center. At the hearing, the Claimant testified that he was using his earbuds on a tablet owned by Huttonsville. He left the tablet and the earbuds on a table in the day room of his dormitory. The next morning, he went to retrieve the earbuds and discovered they had been confiscated as abandoned property. The Claimant filed a grievance which was ultimately denied inasmuch as the earbuds were not listed on his personal property inventory cards. He placed a value of \$4.77 on the lost earbuds.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that inmates are not permitted to leave personal property overnight or unattended in the common areas of the dormitories. The Respondent further asserted that there was no bailment situation between the Claimant and the Respondent so as to create any liability on the part of the Respondent.

The Legislative Claims Commission found that the Claimant left his earbuds unattended in the day room and that his earbuds were not listed on his personal property inventory cards. The Claims Commission further found that the Claimant failed to establish that a bailment relationship existed between the Claimant and the Respondent.

AMOUNT CLAIMED: \$4.77

AMOUNT AWARDED: \$0.00

#### **CC-19-1176 MARK RILEY v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of property he alleged was lost while he was incarcerated at Huttonsville Correctional Center. At the hearing, the Claimant testified that while

he was at his prison job, an unknown inmate entered his cell and stole his personal property. Some of his property was found in another inmate's cell; it was then used as evidence in the case against this other inmate. The Claimant's property was then deemed contraband. The Claimant placed a value of \$1,750.00 on his lost property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly discharged its duty to the Claimant by providing him with sufficient means to lock and secure his personal property. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the Claimant was responsible for securing his personal property and he retained control over his property.

The Legislative Claims Commission found that the Respondent properly and reasonably discharged its duty to the Claimant to provide a means of storage and security for his personal property items. The Claims Commission further found that the Claimant did not establish that the items had been delivered to the Respondent and in the Respondent's physical custody so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant.

AMOUNT CLAIMED: \$1,750.00

AMOUNT AWARDED: \$0.00

#### **CC-20-0160 CHRISTOPHER ROBEY v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property he alleged was lost while incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that on November 4, 2019, he was transferred to the segregation unit. When he was released and transferred back to general population, he discovered that some of his property was missing. He alleged that his cellmate stole his property items and sold them on the yard. His grievances were denied; he placed a value of \$866.13 on his stolen property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. Further, the Respondent asserted that there is no duty to safeguard an inmate's property from theft by other inmates when the property is in the control of the inmate in the inmate's cell and not in the control or custody of the Respondent.

The Legislative Claims Commission found that the property was in the Claimant's cell at the time of the alleged theft and the property had not been delivered to the custody of the Respondent. The Claims Commission further found that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. The Claims Commission further found that the Respondent cannot be held liable for the loss of an inmate's property when the loss is a result of theft by another inmate.

AMOUNT CLAIMED: \$866.13

AMOUNT AWARDED: \$0.00

**CC-20-0585 TAMMY ROWE v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this action to recover the value of personal property she alleged was lost while incarcerated at the South Central Regional Jail. At the hearing, the Claimant testified that in July, 2019, she was arrested and booked at the Jail. She gave the booking officer a bag with her personal clothing and other items. Her personal property could not be located when she was released from the jail to a temporary rehabilitation center. She testified that she completed four grievance forms concerning the lost property; none were appealed to the Commissioner level. The Claimant placed a value of \$2,500.00 on the missing property but did not submit any invoices, receipts or other documentation to substantiate her claimed damages.

The Respondent denied the validity of the claim asserting that the Claimant failed to complete the grievance process for any of the grievances she filed regarding her lost property and accordingly failed to timely exhaust her administrative remedies before filing her claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of her failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Legislative Claims Commission found that the West Virginia Prisoner Litigation Reform Act controlled the disposition of this claim. Under this Act, the Claimant is required to exhaust all administrative remedies set forth in the Act before any claim may be filed with the Claims Commission. As the Claimant failed to comply with the provisions of the Prisoner Litigation Reform Act, the Claims Commission is barred from exercising jurisdiction over the Claimant's claim.

AMOUNT CLAIMED: \$2,500.00

AMOUNT AWARDED: \$0.00

**CC-20-0377 BENJAMIN TAYLOR v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant sought to recover the value of personal property he alleged was lost while incarcerated at Northern Correctional Center. At the hearing, the Claimant testified that on October 17, 2019, he left his cell to attend a church service in the prison. When he returned to his cell, he discovered that his CD player, beard trimmers and numerous food items had been stolen from his cell. The Claimant's grievance was ultimately denied as there was no evidence to support the Claimant's allegations of stolen property. The Claimant placed a value of \$64.45 on his stolen property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. Further, the Respondent asserted that there is no duty to safeguard an inmate's property from theft by other inmates when the property is in the control of the inmate in the inmate's cell and not in the control or custody of the Respondent.

The Legislative Claims Commission found that the property was in the Claimant's cell at the time of the alleged theft and the property had not been delivered to the custody of the Respondent. The Claims Commission further found that there was no bailment relationship between the Claimant and the Respondent at the time of the alleged theft. The Claims Commission further

found that the Respondent cannot be held liable for the loss of an inmate's property when the loss is a result of theft by another inmate.

AMOUNT CLAIMED: \$64.45

AMOUNT AWARDED: \$0.00

**CC-20-0456 ZACKERY WALKER v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property he alleged was lost while incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that on May 15, 2020, he was transferred to the segregation unit. When he was released and transferred back to general population, he discovered that some of his property was missing, including a CD player, beard trimmers, a surge protector and a pair of headphones. His grievance was denied; he placed a value of \$80.79 on his stolen property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimant's property inventory cards did not list the lost property as part of his inventory. The Respondent further asserted that because it did not have custody or control over these items when they were purportedly lost, no bailment relationship between the Claimant and the Respondent had been established.

The Legislative Claims Commission found that the property that was the subject of the Claimant's claim was not listed on the Claimant's property cards and inventories. The Claimant failed to demonstrate that these items were in his possession at the time he was transferred to segregation. The Claims Commission further found that the Claimant failed to establish that his personal property had been delivered to the Respondent so as to create a bailment situation.

AMOUNT CLAIMED: \$80.79

AMOUNT AWARDED: \$0.00

**CC-18-1613 KEVIN WILLIAMS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property he alleged was lost while incarcerated at Huttonsville Correctional Center. At the hearing, the Claimant testified that he had been provided with a lockbox for storing his personal property items. He learned that he was being transferred from one dormitory to another; at that time, he learned that the lock on his storage box was not the same lock that had been originally assigned to him. He alleged that someone broke into his storage box, stole his personal property and then placed a different lock on the box. His grievance was ultimately denied; he placed a value of \$710.75 on his stolen property.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that it had properly discharged its duty to the Claimant by providing him with sufficient means to lock and secure his personal property. The Respondent further asserted that there was no bailment relationship between the Claimant and the Respondent since the Claimant was responsible for securing his personal property and he retained control over his property.

The Legislative Claims Commission found that the Respondent properly and reasonably discharged its duty to the Claimant to provide a means of storage and security for his personal

property items. The Claims Commission further found that the Claimant did not establish that the items had been delivered to the Respondent and in the Respondent's physical custody so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant.

AMOUNT CLAIMED: \$710.75

AMOUNT AWARDED: \$0.00

**CC-20-0437 STEVEN WILLIAMS v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property he alleged was lost while incarcerated at Mount Olive Correctional Complex. At the hearing, the Claimant testified that he was transferred to Mount Olive and placed on the segregation unit upon his arrival. When he was released from segregation, he discovered that three baseball caps and a pair of shoes were missing. His grievance was ultimately denied. The Claimant placed a value of \$350.00 on his stolen property; however, he did not submit any receipts, invoices or other documentation in support of his claim.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that some of the Claimant's personal property items had been seized as contraband as they did not contain the Claimant's required identification number. The Respondent submitted the appropriate seizure forms that demonstrated that the Claimant had failed to make the necessary arrangements to have his property mailed out in accordance with the Respondent's policies. Further, the Respondent asserted that there was no evidence submitted to establish that the Claimant's shoes had been delivered to the Respondent so as to establish a bailment relationship.

The Legislative Claims Commission found that the Claimant did not establish that the items had been delivered to the Respondent and in the Respondent's physical custody so as to create a bailment situation. The Claims Commission further found that the Claimant did not establish that the Respondent had breached any duty owed to the Claimant and therefore, the Respondent was not liable to the Claimant.

AMOUNT CLAIMED: \$350.00

AMOUNT AWARDED: \$0.00

**CC-20-0431 ROGER LEE YEAGER v. DIVISION OF CORRECTIONS AND REHABILITATION**

The Claimant filed this claim to recover the value of personal property he alleged was lost while incarcerated at Mount Olive Correctional Complex. The Claimant was arrested by the Charleston Police Department on February 16, 2020. He alleged that his property was taken following his arrest and put into a transport bag. When he arrived at Mount Olive, he requested his property and discovered that his watch was missing. The Claimant alleged that he filed a grievance concerning the lost watch but did not submit copies of his grievances as required. The Claimant placed a value of \$50.00 on the lost watch but did not provide any supporting documentation.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that its employees are not involved in transporting inmates at the time of their arrest; the arresting agency generally transports inmates to the facility. The Respondent further asserted that the Claimant failed to exhaust his administrative remedies before filing his

claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of his failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Legislative Claims Commission found that the West Virginia Prisoner Litigation Reform Act controlled the disposition of this claim. Under this Act, the Claimant is required to exhaust all administrative remedies set forth in the Act before any claim may be filed with the Claims Commission. As the Claimant failed to comply with the provisions of the Prisoner Litigation Reform Act, the Claims Commission is barred from exercising jurisdiction over the Claimant's claim.

AMOUNT CLAIMED: \$50.00

AMOUNT AWARDED: \$0.00

**CLAIM AGAINST THE DIVISION OF CORRECTIONS AND REHABILITATION AND THE WEST VIRGINIA ARMY NATIONAL GUARD**

**CC-20-0656 DAVID CLAYTON WHITE v. DIVISION OF CORRECTIONS AND REHABILITATION AND THE WEST VIRGINIA ARMY NATIONAL GUARD**

The Claimant filed this claim to recover the value of personal property he alleged was damaged while incarcerated at Mount Olive Correctional Complex. The Claimant testified that while he was in the segregation unit, his cell was sprayed with disinfectant to reduce the spread of the Covid-19 coronavirus within the facility. Personnel with the West Virginia Army National Guard sprayed all areas of the prison, including inmate cells. After he returned to general population, his cell was sprayed a second time. The Claimant alleged that his television was damaged by the disinfectant spray. The Claimant did not file any grievances concerning the alleged damage to his television; he placed a value of \$222.00 on the television. .

The Respondent, Division of Corrections and Rehabilitation, disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the Claimant failed to exhaust his administrative remedies before filing his claim with the Legislative Claims Commission. The Respondent further asserted that the Claims Commission did not have the requisite jurisdiction to entertain the Claimant's claim because of his failure to exhaust his administrative remedies pursuant to the West Virginia Prisoner Litigation Reform Act.

The Respondent, West Virginia Army National Guard, also disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that West Virginia Code §55-19-4 barred the Claimant's claim inasmuch as this provision granted immunity to the Respondent in its role as providing responsive actions to prevent the spread of the Covid-19 coronavirus.

The Legislative Claims Commission found that the West Virginia Prisoner Litigation Reform Act controlled the disposition of this claim. Under this Act, the Claimant is required to exhaust all administrative remedies set forth in the Act before any claim may be filed with the Claims Commission. As the Claimant failed to comply with the provisions of the Prisoner Litigation Reform Act, the Claims Commission is barred from exercising jurisdiction over the Claimant's



claim. The Claims Commission further found that West Virginia Code §55-19-4 provided immunity to the West Virginia Army National Guard and as such barred the Claimant's claim.

AMOUNT CLAIMED: \$222.00

AMOUNT AWARDED: \$0.00

### **CLAIMS AGAINST THE DIVISION OF HIGHWAYS**

#### **CC-18-0470 JACK L. ADAMS AND EVELYN L. ADAMS v. DIVISION OF HIGHWAYS**

The Claimants alleged that the negligence of the Respondent was the cause of damage to their property. At the hearing, the Claimant testified that in 2015 the private bridge that connected their property to Rock River Road in Rock, Mercer County was damaged after multiple heavy rainstorms. He alleged that the Respondent failed to properly maintain the ditches and drainage system, which led to water overflowing the ditches and washing onto his property. The Claimant made numerous visits to the Respondent's local office to notify them of the property damage. After one visit in early 2016, he believed that one of the employees was completing a claim form for him; he later learned that she was completing an internal complaint form. When he spoke with a supervisor approximately two years later, he was advised that the form was a complaint form and not a claim form. The supervisor made arrangements to have a work crew clean out the culverts and ditches along Rock River Road. The Claimants submitted cancelled checks in the amount of \$2,500.00 for repairs to the private bridge as exhibits when they filed their claim on March 2, 2018.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the claim was barred by the applicable statute of limitations set forth in West Virginia Code 55-2-12(a), which is two years.

The Legislative Claims Commission found that the Claimants filed their Notice of Claim more than two years after the incident and further found that their claim was time barred by West Virginia Code 55-2-12(a).

AMOUNT CLAIMED: \$2,500.00

AMOUNT AWARDED: \$0.00

#### **CC-16-0615 DONALD L. BART AND THERESA L. BART v. DIVISION OF HIGHWAYS AND BEAR CONTRACTING, LLC**

The Claimants filed this action alleging that the negligence of the Respondent was the cause of personal injuries sustained in a motorcycle accident. At the hearing, the Claimant testified that on June 11, 2016, he was operating his 2011 Harley Davidson Road Glider Ultra. He was traveling on the entrance ramp to Interstate 79 South at Exit 137. The pavement on the entrance ramp had been milled in preparation for repaving; the traveling lanes of Interstate 79 had already been paved. The Claimant testified that he observed a slight lip on the roadway where the paved portion connected to the milled portion of the road. He slowed down as he approached the lip and opted to cross straight over the lip instead of sliding up over it. The front wheel of his motorcycle crossed over the lip without any problems; as the back wheel hit the lip, the Claimant lost control of his motorcycle and crashed. He sustained personal injuries to his back, knee, shin, and arms. The Claimants submitted unpaid medical bills in the amount of \$714.61; his collision

insurance required a deductible of \$500.00. The Claimant was off work for approximately nine weeks; he received short term disability benefits but still had a loss of earnings in the amount of \$8,887.75.

The Respondent and the Intervenor-Respondent contractor disputed the validity of the claim in its pleadings and at the hearing. Both parties asserted that the lip between the milled lane and the newly paved lane constituted an open and obvious condition and did not qualify as a road defect. They further asserted that the repaving of Interstate 79 was an ongoing construction project and the Claimant testified that he was aware of the changes in elevation of roadway surfaces of each lane. These parties further asserted that the Claimant did not merge in the designated merging lane; rather, he merged onto Interstate 79 by crossing a solid white lane. The Respondent and the Intervenor-Respondent further asserted that there were multiple warning signs posted in the area, including a sign warning of a bump at the location of the entrance ramp. The Claimant failed to heed the posted warning signs. Both parties further asserted that the paving sequence of Interstate 79 South was conducted and completed in accordance with acceptable industry standards.

The Legislative Claims Commission found that the road conditions during the ongoing paving project, including the height differential between the milled lane and the newly paved lane, were such to be an open and obvious condition, reasonably and readily apparent to users of Interstate 79 South at the time of the Claimant's accident. The Claims Commission further found that the paving project was completed in accordance with industry standards and that sufficient warning signs were posted in the area where the Claimants' accident occurred. The Claims Commission found that the Claimants did not establish that the negligence, if any, of the Respondent and the Intervenor-Respondent was the proximate cause of the Claimants' injuries. The Claims Commission found that there was no evidence in the record that the Respondent and the Intervenor-Respondent were at fault for the Claimants' accident.

AMOUNT CLAIMED: \$38,645.70

AMOUNT AWARDED: \$0.00

#### **CC-21-0364 JOHN F. BISSON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on December 4, 2020, he was driving his 2016 Freightliner Cascadia tractor with a loaded 2020 Hyundai Dry Trailer attached. The Claimant was using two GPS systems installed in his vehicle for directions. He entered West Virginia in the Morgantown area; his final destination was Fulton, Georgia. He testified that his GPS directed him to Interstate 79 South and then to US Route 119. Following the GPS directions, he began driving on Upper Crawley Creek Road in Chapmanville, Logan County; he began noticing that the roadway was narrowing as he drove. He began to negotiate a curve in the roadway when a vehicle approached him from the opposite direction. The Claimant cut his turn short to avoid a collision. As a result, one the axles on the trailer left the roadway pulling both the tractor and the trailer into the ditch. The tractor and the trailer both overturned; the tractor, trailer and the cargo inside the trailer were deemed a total loss by his insurance company. The Claimant testified that there was little to no shoulder on the roadway. The Claimant alleged that the Respondent failed to maintain a shoulder on Upper Crawley Creek Road and further failed to post any signs warning of a narrowing roadway or prohibiting large trucks on the roadway. The

Claimant sought to recover the amount of \$3,000.00, which was the total for the collision deductibles on the tractor, trailer and the cargo.

The Respondent disputed the validity of the claim. The Respondent's investigator testified that Upper Crawley Creek Road is a narrow, winding two-lane road. Signs that state "Road Narrows" are posted on the roadway before the site where the Claimant's incident occurred. The investigator further testified that the Respondent is only responsible for the paved surface of Upper Crawley Creek Road and not the shoulders or ditches alongside the roadway.

The Legislative Claims Commission found that the Respondent's responsibility for maintaining Upper Crawley Creek Road extended only to the paved surface and not the shoulders or other areas off the traveling surface of the roadway. Since the Claimant's incident occurred off the driving surface, liability cannot be assessed against the Respondent.

AMOUNT CLAIMED: \$3,000.00

AMOUNT AWARDED: \$0.00

#### **CC-19-0066 JAMES R. BROWN AND KAYELA BROWN v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of their personal injuries as well as damage to their vehicle. At the hearing, the Claimants testified that on December 16, 2018, they were traveling on Interstate 70 East in Wheeling, Ohio County in their 2001 Nissan Pathfinder. The Claimants' vehicle struck a large pothole in the traveling portion of the roadway. The Claimant testified that the impact with the pothole caused significant damage to the vehicle. They returned several days later to take photos of the pothole and observed a manhole close to the pothole. The Claimant testified that he believed that manhole cover was missing on the day of their incident. The Claimants sought medical attention but did not submit any medical records or medical bills in support of their claim. The Claimants submitted invoices in the amount of \$5,000.00 for repairs to their vehicle; they did not carry collision insurance on their vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice of any pothole or other road defect in the roadway on the date of the Claimants' incident. The Respondent's interstate supervisor testified that the Respondent did not have notice of any potholes, missing manhole covers or any other road defects on the date of the Claimants' incident. This witness also testified that he spoke with the Claimants following the incident and inspected the roadway. He observed that the manhole cover was properly in its place and that the only pothole he observed was some distance from the manhole.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of a pothole situated in the traveling portion of the roadway on Interstate 70 East on the date of the Claimants' incident.

AMOUNT CLAIMED: \$5,000.00

AMOUNT AWARDED: \$0.00

**CC-20-0457 GLORIA CALLOWAY v. DIVISION OF HIGHWAYS**

The Claimant sought to recover damages to her property. The Claimant testified that she did not know how her property was damaged as she was not on the premises when the damages allegedly occurred. She did not submit any invoices to document her alleged damages.

The Respondent disputed the validity of the claim and asserted that the Claimant had failed to state a claim upon which relief could be granted. The Respondent further asserted that the Claimant had failed to submit any evidence or proof substantiate her claim.

The Legislative Claims Commission found that the Claimant failed to prove that the Respondent's negligence, if any, caused the damage to her property. The Claims Commission further found that the Claimant failed to submit any evidence or other documentation in support of her claim and accordingly, the Claimant failed to meet her burden of proof.

AMOUNT CLAIMED: Unspecified

AMOUNT AWARDED: \$0.00

**CC-21-0277 ERIC CHOICE v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that he was driving his 2015 Chevrolet Impala on Interstate 64 in South Charleston, Kanawha County when a piece of tractor trailer tire became airborne and struck the Claimant's vehicle. The Claimant submitted invoices in the amount of \$2,414.38; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any tractor trailer tire pieces in the roadway on the date of the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of tire pieces situated in the traveling portion of the roadway on Interstate 64 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$2,414.38

AMOUNT AWARDED: \$0.00

**CC-21-0130 WILLIAM DEETER v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on February 21, 2021, he was driving his 2007 Chevrolet Trailblazer on US Route 50 over the Corridor D Bridge near Washington, Wood County when his vehicle was struck by a large chunk of ice falling from the top of the bridge. The Claimant testified that he believed that the bridge should have been equipped with some sort of netting or other device to catch large chunks of falling ice. The Claimant submitted invoices in the amount of \$1,749.12; he did not carry collision insurance on his vehicle.

The Respondent disputed the validity of the claim.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of the thawing ice falling from the top of the Corridor D bridge on the date of the Claimant's incident.

AMOUNT CLAIMED: \$1,749.12

AMOUNT AWARDED: \$0.00

**CC-20-0562 ALFRED K. DERR, SR. v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that he was driving his 2019 Hyundai Kona on US Route 40 in Elm Grove, Ohio County when his vehicle struck a section of the curb that had crumbled and had a sharp piece of concrete jutting out at the edge of the roadway. He testified that he had driven close to the curb in order to avoid traffic in the oncoming lane. The Claimant submitted invoices in the amount of \$116.60; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of the broken curb and that the concrete piece was actually located off the driving surface of the roadway and did not constitute a road defect.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of the broken curb and the sharp edged concrete piece at the edge of the driving surface of the roadway on US Route 40 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$116.60

AMOUNT AWARDED: \$0.00

**CC-20-0738 BERNARD E. DILLON, JR. AND AMY HALE DILLON v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on November 13, 2020, she was driving her husband's 2004 Chevrolet Impala Super Sport on US Route 52 near Welch, McDowell County when the vehicle struck a large rock in the traveling lane of the roadway. He did not know how long the rock had been in the roadway and she did not know whether the Respondent had been notified of the rock's presence in the road. The Claimant testified that she believed that the Respondent's employees were working on the hillside adjacent to the roadway the week before their incident and that this work caused rocks to loosen and fall into the roadway. The Claimants submitted a repair estimate in the amount of \$3,370.11; they did not carry collision insurance on their vehicle. The Claimants also sought to recover at least \$500 for each individual in their vehicle at the time of the incident for inconvenience.

The Respondent disputed the validity of the claim, asserting that it had no notice of any rocks in the roadway on the date of the Claimants' incident. The Respondent's investigator testified that the Respondent's employees had not been working on the hillside adjacent to US Route 52 during the time frame of the Claimants' incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of any rocks situated in the traveling portion of the roadway on US Route 52 on the date of the Claimants' incident.

AMOUNT CLAIMED: \$5,370.11

AMOUNT AWARDED: \$0.00

### **CC-20-0438 DOUGLAS C. EDWARDS v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on June 14, 2020, he was driving his 2020 Lincoln Nautilus on Interstate 64 near Charleston, Kanawha County when his vehicle struck an unknown object situated in the traveling portion of the roadway. He believed the object to be a large piece of concrete with rebar protruding from it or a broken expansion joint. He did not know how long the object had had been in the roadway and he did not know whether the Respondent had been notified of the object's presence in the road. The Claimant submitted invoices in the amount of \$1,486.84; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any unknown objects in the roadway on the date of the Claimants' incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of an unknown object situated in the traveling portion of the roadway on Interstate 64 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$1,486.84

AMOUNT AWARDED: \$0.00

### **CC-18-0925 THURMAN FLETCHER AND LINDA FLETCHER v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. The Claimant testified that following heavy rains on May 27, 2018, their property on Unity Road in Princeton, Mercer County flooded. She further testified that the Claimants and their neighbor installed a common drain on their properties to direct any surface water to the drain and creek behind their properties. On the day of the flooding incident, the drain overflowed and there was no ditch in the vicinity to divert the flood waters. Although the Respondent had installed two additional drains on Unity Road, the Claimants believed that these new drains as well as the expansion of her neighborhood served to increase flooding problems.

The Claimants listed damages in the amount of \$3,000.00 but they did not submit any receipts, invoices or other documentation in support of their claim for damages.

The Respondent disputed the validity of the claim, asserting that the drains that are purportedly creating flooding problems on the Claimants' property are situated on private property and are outside the Respondent's responsibilities. The Respondent further asserted that the Claimants' property is situated within a natural drainage course and that any waters naturally flow downwards to the creek located at the rear of their property.

The Legislative Claims Commission found that the Claimants failed to prove that the negligence of the Respondent, if any, was the cause of damages to their property. The Claims Commission further found that the evidence before it indicated that the Respondent was responsive to the Claimants' concerns. The evidence also demonstrated that the flooding issues on Unity Road are due to the lack of maintenance on drains and ditches located on private property and not on property owned, controlled or maintained by the Respondent.

AMOUNT CLAIMED: \$3,000.00

AMOUNT AWARDED: \$0.00

#### **CC-20-0218 JONATHAN FREDRICK v. DIVISION OF HIGHWAYS**

The Claimant alleged that the negligence of the Respondent was the cause of damage to this vehicle. The Claimant testified that on June 3, 2020, he was driving his 2016 GMC Acadia on Interstate 77, Interstate 64 and US Route 35. After a brief stop before leaving West Virginia, the Claimant discovered yellow paint on his vehicle. He testified that he drove through an extensive construction zone while driving in West Virginia. The Claimant submitted invoices in the amount of \$1,396.40; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent's investigator testified that the investigation revealed that there was no ongoing construction on the roads owned by the Respondent. Rather, there was extensive construction on the West Virginia Turnpike. The Respondent asserted that the the West Virginia Parkways Authority was responsible for the damage to the Claimant's vehicle inasmuch as it owns the West Virginia Turnpike. The Respondent further asserted that because it did not own, maintain, repair, or control the West Virginia Turnpike, it should not be held liable for any damages.

The Legislative Claims Commission found that the Respondent did not own, maintain, repair, or control the West Virginia Turnpike. The Claimant needed to seek damages and recovery from the West Virginia Parkways Authority instead.

AMOUNT CLAIMED: \$1,396.40

AMOUNT AWARDED: \$0.00

#### **CC-20-0477 CARLEE FRYE v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's failure to properly maintain the road was the cause of damage to her. At the hearing, the parties agreed to a stipulation of the Claimant's claim in the amount of \$302.50. The Stipulation was contingent upon the Claimant submitting the appropriate declarations page and other insurance information to the Claims Commission. Despite repeated written requests to the Claimant requesting that she submit the

required insurance information, the Claimant failed to respond and submit the requested information. The Claims Commission found that the Claimant's failure to submit the required insurance information to complete her claim precluded her from recovery.

AMOUNT CLAIMED: \$302.50

AMOUNT AWARDED: \$0.00

### **CC-21-0537 ALAN GREENSTEIN v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on April 17, 2020 he was driving his GMC Yukon Denali through a construction zone on Interstate 64 West near Beckley, Raleigh County when his vehicle struck a large piece of metal situated in the traveling portion of the roadway. The Claimant submitted invoices in the amount of \$263.16; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any metal pieces in the roadway on the date of the Claimant's incident. The Respondent's witness testified that the traveling lane was clear of any metal pieces or other construction debris when the construction crews left the work site the previous day.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of any metal pieces situated in the traveling portion of the roadway on Interstate 64 West on the date of the Claimant's incident.

AMOUNT CLAIMED: \$263.16

AMOUNT AWARDED: \$0.00

### **CC-20-0595 CAMERON HAMIDI v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on Saturday, September 26, 2020, he was driving his 2015 Porsche Cayenne on US Route 48 near Wardensville, Hardy County when he encountered a work zone where two trucks were painting markings on the travel lanes. When the Claimant arrived at his destination, he discovered yellow paint on his vehicle. The Claimant testified that he was not certain where he encountered the paint trucks so he filed a claim in both West Virginia and Virginia. The Claimant submitted invoices in the amount of \$5,438.19; his collision insurance required a deductible of \$749.00.

The Respondent disputed the validity of the claim, asserting that neither the Respondent nor its contractors were repainting or restriping the road on the date of the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual



or constructive notice of any paint in the traveling portion of US Route 48 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$5,438.19

AMOUNT AWARDED: \$0.00

**CC-19-0159 ANGELA HARRISON, MICHAEL HARRISON AND HUBERT HARRISON v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. At the hearing, the Claimant testified that on various dates in 2018 and 2019, the Respondent's work crews were ditching on West Virginia Route 131, Saltwell Road, in Shinnston, Harrison County. She alleged that the work crews were improperly ditching and maintaining the ditches, which led to slippage on their property. This slippage then led to cracks developing in the foundation of their residence. She further testified that she believed the work crews to be working beyond the Respondent's right of way, which she believed to be thirty (30) feet. The Claimants alleged that the Respondent's work crews undercut the bank along West Virginia Route 131, Saltwell Road, while they were performing maintenance work, which led to erosion of the area. The Claimants submitted an invoice in the amount of \$10,500.00 for repairs to the piers of the residence. No other documentation or testimony was submitted by the Claimants.

The Respondent disputed the validity of the claim, asserting that West Virginia Route 131, Saltwell Road, was adopted into the States' highway system in the 1930's and had a designated right of way of forty (40) feet. The Respondent's highway administrator testified that work crews had cleaned out the ditches along this route and worked within the Respondent's right of way; they did not lengthen or deepen the ditches or do any other excavation work.

The Legislative Claims Commission found that the Claimants did not meet their burden of proof to establish that the Respondent was negligent in its maintenance of the drainage system. The Claims Commission further found that the Respondent was working within its right of way and further that it met its duties and responsibilities with respect to its ditches and drainage system on West Virginia Route 131, Saltwell Road.

AMOUNT CLAIMED: \$10,500.00

AMOUNT AWARDED: \$0.00

**CC-20-0743 MARCELLA K. HARRISON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that her brother was driving her 2013 Dodge Dart on West Virginia Route 20 in Reader, Wetzel County on October 29, 2020 when the vehicle struck a large rock in the traveling portion of the roadway. She testified that she believed that the rock had fallen from the adjacent hillside. She did not know how long the rock had been in the roadway and she did not know whether the Respondent had been notified of the rock's presence in the road. The Claimant submitted invoices in the amount of \$1,343.75; her collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any rocks in the roadway on the date of the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of any rocks situated in the traveling portion of the roadway on West Virginia Route 20 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$1,343.75

AMOUNT AWARDED: \$0.00

#### **CC-20-0709 KATHERINE L. HATFIELD v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on November 16, 2020, she was driving her 2013 Chevrolet Equinox on Clear Fork Road near Clear Fork, Wyoming County when a tree was blown onto the top of her vehicle. The tree rolled off the top of her vehicle and landed in the traveling portion of the roadway. She was unable to stop and her vehicle struck the trunk of the tree. The Claimant submitted invoices in the amount of \$1,835.11; she did not carry collision insurance on her vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice of a tree in the roadway on the date of the Claimant's incident. The Respondent's witness testified that the local office had not received any call or complaints concerning the trees in the Respondent's right of way along Clear Fork Road.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of any problematic trees situated in the Respondent's right of way or the traveling portion of the roadway on Clear Fork Road on the date of the Claimant's incident.

AMOUNT CLAIMED: \$1,835.11

AMOUNT AWARDED: \$0.00

#### **CC-20-0546 CHRISTOPHER JETT v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on August 15, 2020, he was driving his 2018 Honda Accord on US Route 35 near Scott Depot, Putnam County when his vehicle struck a swath of gravel or concrete pieces in the roadway. He was unaware as to whether the Respondent had been notified of the presence of gravel or concrete in the road. The Claimant submitted invoices in the amount of \$319.10; his collision insurance required a deductible of \$1,000.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of gravel or concrete pieces in the roadway on the date of the Claimant's incident. The Respondent's investigator testified that the Respondent's office in that locale had not received any calls or complaints regarding gravel or concrete in the road; a site inspection did not reveal any defects in the road from which the concrete pieces could have originated.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of gravel or concrete pieces situated in the traveling portion of the roadway on US Route 35 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$319.10

AMOUNT AWARDED: \$0.00

#### **CC-20-0541 JOSEPH JOHNSON AND TAMMY JOHNSON v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. At the hearing, the Claimant testified that a large tree was growing in a creek near his property on Oakwood Road in Hamlin, Lincoln County. On the morning of August 5, 2020, the garbage truck came through his neighborhood and struck a portion of the tree that extended into the roadway. The impact of the garbage truck striking the tree caused the tree to fall; the tree struck the Claimants' fence when it fell. The Claimant testified that he had notified the Town of Hamlin on several occasions regarding his concerns of this tree. He was advised that the Town of Hamlin was not responsible for the tree and that the Town employees would notify the Respondent. The Claimant further testified that he spoke with two of the Respondent's employees who had come to inspect the tree and was advised at that time that the tree was situated on private property and was not on property or a right of way owned and maintained by the Respondent. The Claimants submitted invoices in the amount of \$120.00.

The Respondent disputed the validity of the claim, asserting that the tree was situated on private property and not on any property that was owned or maintained by the Respondent. The Respondent's witness testified that he inspected the tree prior to this incident and had advised the Claimants that the tree was situated on private property outside the responsibility of the Respondent.

The Legislative Claims Commission found that the tree was situated on private property and accordingly was outside of the area of the Respondent's responsibility. Accordingly, liability cannot be assessed against the Respondent for trees that are growing on private property

AMOUNT CLAIMED: \$120.00

AMOUNT AWARDED: \$0.00

#### **CC-20-0353 LARRY JOHNSON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that he was driving his 2003 Chevrolet pickup truck on West Virginia Route 39 near Richwood, Nicholas County on April 13, 2020. He was hauling a trailer that was carrying another vehicle. He stopped to make sure the trailer and its cargo were secure. When he resumed traveling, he drove around a curve and struck a fallen tree that was situated in the traveling lane of the roadway. The Claimant testified that he believed the tree to have fallen due to a recent windstorm. He further testified that when he was stopped along the shoulder, a truck coming from the opposite direction passed him. He believed this truck to be owned and operated by the Respondent. The Claimant testified that this truck should have

stopped to warn him of the fallen tree. The Claimant submitted invoices in the amount of \$3,408.66; he did not carry collision insurance on his vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice of any trees in the roadway on the date of the Claimant's incident. The Respondent's investigator testified that the Respondent did not receive any calls or complaints regarding a tree in the roadway before the Claimant's incident. There were no work records for the Respondent's work crews demonstrating that tree removal on West Virginia Route 39 east of Richwood had been performed on the date of the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of a fallen tree on West Virginia Route 39 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$3,408.66

AMOUNT AWARDED: \$0.00

#### **CC-20-0536 JOSHUA JONES v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on July 7, 2020, he was driving his 2008 Acura TL on West Virginia Route 2, Main Street, in Weirton, Hancock County when he encountered high water in the roadway. As he was driving through the high water, his vehicle suddenly stopped operating. He further testified that this was the first time he had observed high water in the roadway at this particular location. The Claimant submitted invoices in the amount of \$3,060.51; he did not carry collision insurance on his vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice of any high water in the roadway prior to the Claimant's incident. The Respondent asserted that it received its first notice of the flooding and high waters after the Claimant's incident had occurred.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of high waters in the traveling portion of the roadway on West Virginia Route 2 prior to the Claimant's incident.

AMOUNT CLAIMED: \$3,060.51

AMOUNT AWARDED: \$0.00

#### **CC-20-0476 KAREN S. JORDAN v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that she was driving her 2016 Toyota Corolla on numerous roads in the Ashton, Mason County area. She testified that Glenwood Road, Whitten Ridge and Johns Creek Road had numerous potholes which caused her to purchase new

tires and have several alignments performed on her vehicle. The Claimant did not specify a particular pothole, road or date as to when the damage occurred to her vehicle. The Claimant submitted invoices in the amount of \$745.75; her collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any potholes or other road defects which allegedly had caused the Claimant's damages.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of a specific road defect or pothole that allegedly caused the Claimant's damages. The Claims Commission further found that the evidence and documentation submitted in the claim was insufficient upon which to impose liability on the Respondent and accordingly, the Claimant failed to meet the required burden of proof.

AMOUNT CLAIMED: \$745.75

AMOUNT AWARDED: \$0.00

#### **CC-20-0641 DEAN K. MAKRICOSTAS v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on August 5, 2020, he was driving his 2006 BMW on Collier's Way Road in Weirton, Brooke County when his vehicle struck a loose grate cover in the roadway. The cover flipped up and exposed the open hole; the passenger side of the Claimant's vehicle sunk into the exposed hole and damaged the vehicle on the passenger side. The Claimant submitted invoices in the amount of \$2,245.40; he did not carry collision insurance on his vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice of any loose grate covers in the roadway on the date of the Claimant's incident.

The Legislative Claims Commission found that the Respondent may have been negligent in its maintenance of Collier's Way Road on the date of the Claimant's incident. However, the documentation submitted in support of his damages was inconsistent with the narrative section of the Notice of Claim form and also the Claimant's testimony at the hearing. The Claims Commission found that the Claimant did not meet the burden of proof and the evidence in the record was insufficient upon which to base an award.

AMOUNT CLAIMED: \$2,245.40

AMOUNT AWARDED: \$0.00

#### **CC-20-0548 VERONICA MAY v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on February 12, 2019, she was driving her 2014 Chevrolet Malibu LS on Interstate East near the entrance ramp at Hall Greer Boulevard near Huntington, Cabell County. She switched lanes to avoid cars entering the Interstate during a rainstorm. As she did so, she encountered a large amount of rainwater in the road. The

Claimant lost control of her vehicle and struck the concrete barrier. The Claimant's vehicle hydroplaned and came to a stop facing oncoming traffic. The Claimant testified that she was not physically injured in the incident; she believed that drainage system in that area of the Interstate was not functioning properly. The Claimant submitted invoices in the amount of \$1,509.32; her collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any areas of high water in the roadway on the date of the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of high waters situated in the traveling portion of the roadway on Interstate 64 East on the date of the Claimant's incident.

AMOUNT CLAIMED: \$1,509.32

AMOUNT AWARDED: \$0.00

#### **CC-19-0554 MARTHA MCCARTY AND FELINDA BARB v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on July 11, 2018, she was driving a 2000 Cadillac Escalade on Kennison Mountain Road near Mill Point, Pocahontas County. As she drove around a curve, her vehicle struck a fallen tree that was laying across both lanes of the roadway. She did not know whether the Respondent had been notified of the tree's presence in the road. The Claimants submitted invoices in the amount of \$4,602.91; their collision insurance required a deductible of \$250.00. The Claimants also submitted medical bills dated June 22, 2018 in the amount of \$1,848.36 for medical services provided to the Claimant's daughter who was a passenger in the vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice of any trees in the roadway on the date of the Claimant's incident. The Respondent further asserted that the medical bills were not related to the Claimant's incident as they predated the July 11, 2018 incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of a fallen tree situated in the traveling portion of the roadway on Kennison Mountain Road on the date of the Claimants' incident. The Claims Commission further found that the submitted medical bills were not related to the incident inasmuch as they represented medical services provided prior to the Claimants' incident.

AMOUNT CLAIMED: \$6,451.27

AMOUNT AWARDED: \$0.00

**CC-21-0065 GARY J. MERCER v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his property. At the hearing, the Claimant testified that on June 28, 2020, a tree that was located close to the edge of Campbell Hill Road in Moundsville, Marshall County fell. The tree blocked all lanes of travel in the roadway, struck the guardrails at the edge of the roadway and crushed approximately fifty (50) feet of the Claimant's fence on the opposite side of the road. The Claimant testified that he believed the tree, which was healthy with green leaves, was located on the Respondent's right of way. He further testified that there had been several heavy rainstorms in the days preceding the tree fall. The Claimant submitted invoices in the amount of \$3,564.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any dangers related to this tree prior to the Claimant's incident. The Respondent's county administrator testified that although the tree was situated on the Respondent's right of way, the tree was healthy and the Respondent's office had not received any calls or complaints regarding this tree prior to the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of this tree along Campbell Hill Road as a safety concern on the date of the Claimant's incident.

AMOUNT CLAIMED: \$3,564.00

AMOUNT AWARDED: \$0.00

**CC-18-1379 RANDY G. NESTOR AND KAREN E. NESTOR v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. The Claimants own property on US Route 219, Seneca Trail, between Montrose, Randolph County and Parsons, Tucker County. This property is very close to the construction site of Corridor H. At the hearing, the Claimant testified that on or about September 11, 2018, heavy rainstorms caused flooding on his property. He alleged that the culverts along US Route 219 were poorly maintained and that the clogged ditches overflowed causing water to flow onto his property. The Claimants had contracted with Kokosing Construction for Kokosing to utilize a portion of their property as a lay-down yard for heavy equipment storage during construction. The Claimants were to be paid \$82,000.00 over the course of three years. Following a required environmental study that found that the Claimants' property was considered a palustrine wetland, the lease agreement was terminated. The Claimants alleged that the Respondent's failure to properly maintain the drainage system on US Route 219 created the palustrine wetland, which in turn caused the Claimant's lease agreement with Kokosing to be terminated.

The Respondent disputed the validity of the claim, asserting that the Respondent properly maintained the drainage system on US Route 219 in accordance with the Respondent's core maintenance plans. The Respondent further asserted that it worked with the Claimants' neighbors to alleviate the flooding on the Claimants' property and diverted part of the possible

drainage to the neighbors. Furthermore, the Claimants' property is situated in an established floodplain.

The Legislative Claims Commission found that the Claimants property was situated in a designated floodplain, which is a type of palustrine wetland. This designation preceded the lease agreement between the Claimants and Kokosing. The Claims Commission further found that the Respondent was responsive to the concerns of the Claimants and responded to their calls within a reasonable amount of time. The Claims Commission further found that the Claimants failed to prove that the negligence of the Respondent, if any, was the cause of damages to their property.

AMOUNT CLAIMED: \$82,000.00

AMOUNT AWARDED: \$0.00

**CC-19-1324 RICHARD D. NICHOLSON, JR. v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's failure to properly maintain the road was the cause of damage to his vehicle. At the hearing, the parties agreed to a stipulation of the Claimant's claim in the amount of \$137.90. The Stipulation was contingent upon the Claimant submitting the appropriate declarations page and other insurance information to the Claims Commission. Despite repeated written requests to the Claimant requesting that he submit the required insurance information, the Claimant failed to respond and submit the requested information. The Claims Commission found that the Claimant's failure to submit the required insurance information to complete his claim precluded him from recovery.

AMOUNT CLAIMED: \$137.90

AMOUNT AWARDED: \$0.00

**CC-19-0635 CECILIA PRATER AND SIERRA PRATER v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on March 20, 2019 they were traveling in a 2002 Ford Focus on West Virginia Route 49 near Thacker and Matewan, Mingo County when the vehicle struck a large slip in the roadway. The Claimant further testified that she did not observe any warning signs, lights or other devices to warn motorists of the slip. She testified that repairs to the vehicle were approximately \$4,500.00; their collision insurance required a deductible of \$500.00. The Claimant testified that they did not have any repairs made to the vehicle. The Claimant also testified that she sustained neck injuries as a result of this incident. She testified that her medical bills of \$1,500.00 had been paid under the medical payments coverage of the automobile insurance; she also received a settlement from the insurance company. She had no additional out of pocket expenses.

The Respondent disputed the validity of the claim, asserting that it had notice of the slip on West Virginia Route 49 at the time of the Claimants' incident. The Respondent's witness testified that hazard paddles had been installed to warn motorists of the condition of the roadway. Additional warning signs were erected after their incident as part of the repair work on the slip. The Respondent further asserted that the medical bills were not related to the Claimant's incident as they predated the July 11, 2018 incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road



defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent had actual notice of the slip on West Virginia Route 49 and had taken appropriate measures within a reasonable time.

AMOUNT CLAIMED: \$6,000.00

AMOUNT AWARDED: \$0.00

#### **CC-20-0518 HARRY C. PRITT II v. DIVISION OF HIGHWAYS**

The Claimant alleged that the negligence of the Respondent was the cause of damage to his vehicle. On June 22, 2020, the Claimant was driving his 2018 Toyota Rav4 on US Route 60 near Campbells Creek, Kanawha County. He drove under the Yeager Bridge on Interstate 77 where a contractor was performing construction work on the bridge. He heard a popping noise and noticed that his vehicle was driving differently. He pulled over and discovered that he had a flat tire; a large piece of metal was imbedded in the tire. The Claimant notified the contractor concerning the damage to his tire and was advised to contact the Respondent. The Claimant submitted invoices in the amount of \$233.84; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim in its pleadings and at the hearing. The Respondent asserted that the cause of the Claimant's damages arose from the construction work being performed on the West Virginia Turnpike. The Respondent further asserted that because it did not own, maintain, repair, or control the West Virginia Turnpike, it should not be held liable for any damages. Rather the West Virginia Parkways Authority should be liable for the Claimant's damages.

The Legislative Claims Commission found that the Respondent did not own, maintain, repair, or control the West Virginia Turnpike. The Claimant needed to seek damages and recovery from the West Virginia Parkways Authority instead.

AMOUNT CLAIMED: \$233.84

AMOUNT AWARDED: \$0.00

#### **CC-19-0078 WARNER ROUSH v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his property. At the hearing, the Claimant testified that his farming fields were damaged by flooding. He further alleged that the Respondent failed to properly maintain the culverts along County Route 6 in New Haven, Mason County. The Claimant testified that he lost two planting seasons due to the flooding. He was repairing the damage to the fields and the field tiles himself. He estimated his losses and damages to be approximately \$2,500.00 but did not submit any invoices, receipts or estimates in support of this valuation.

The Respondent disputed the validity of the claim, asserting that the culvert that was the cause of the flooding was situated on private property and was not owned or maintained by the Respondent. The Respondent's administrator testified that a work crew inspected the drainage system in this area and discovered that a culvert pipe on the Claimant's neighbor's property had collapsed, causing the privately owned culvert to overflow and flood the Claimant's fields.

The Legislative Claims Commission found that the Claimant did not satisfy his burden of proof. The Claimant did not submit any independent verification or documentation as to his claimed

damages. Without this evidence, the Claims Commission cannot make a recommendation for an award. In order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent was not at fault for the alleged damage to the Claimant's property and met its duties and responsibilities to properly maintain the drainage system on County Route 6.

AMOUNT CLAIMED: \$2,500.00

AMOUNT AWARDED: \$0.00

**CC-20-0434 LINDA S. RULE AND JAMES A. RULE v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on June 17, 2019, she was driving her 2018 Subaru Outback through a construction zone on Interstate 64 near Hurricane, Putnam County when her vehicle struck an unknown object in the roadway. The Claimants submitted invoices in the amount of \$180.20; their collision insurance required a deductible of \$100.00.

The Respondent disputed the validity of the claim, asserting that insurance coverage was available to the Claimants. Since the incident occurred in a construction zone, the contractor carried insurance which listed the Respondent as an additional insured. The Respondent further asserted that because of the availability of insurance coverage, jurisdiction before the Legislative Claims Commission was improper pursuant to West Virginia Code § 14-2-14(5).

The Legislative Claims Commission found that because insurance was available to the Claimants in this instance, West Virginia Code §14-2-14(5) barred the Claims Commission from hearing the Claimants' claim as the claim could be maintained in either a state or federal court.

AMOUNT CLAIMED: \$180.20

AMOUNT AWARDED: \$0.00

**CC-20-0676 DELL SCOTT v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant's wife testified that she was driving the Claimant's 2013 Nissan Altima on West Virginia Route 88 near Wheeling, Ohio County on October 26, 2020 when the vehicle struck several rocks in the roadway. She did not know whether the Respondent was aware that rocks were in the road. The Claimant submitted invoices in the amount of \$105.95; his collision insurance required a deductible of \$1,000.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any rocks in the roadway on the date of the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual

or constructive notice of rocks situated in the traveling portion of the roadway on West Virginia Route 88 on the date of the Claimant's incident.

AMOUNT CLAIMED: \$105.95

AMOUNT AWARDED: \$0.00

**CC-21-0429 KENNETH SHEPHERD v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant's mother testified that on April 26, 2021, she was driving the Claimant's 2009 Chevrolet Cobalt on Greenbrier Lane in Wheeling, Ohio County. As she was driving, she observed a large tree start to fall from the adjacent hillside. She stopped as quickly as she could but was unable to avoid the tree. The Claimant submitted invoices in the amount of \$3,999.96; he did not carry collision insurance on his vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice concerning any issues with this tree prior to the date of the Claimant's incident. The Respondent's witness testified that the tree was a healthy tree located on the Respondent's right of way; the local office had not received any call or complaints concerning this tree.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of any problematic trees situated in the Respondent's right of way or prior to the date of the Claimant's incident.

AMOUNT CLAIMED: \$3,999.96

AMOUNT AWARDED: \$0.00

**CC-20-0386 CLAYTON W. SHERMAN AND CAROL A. SHERMAN v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their vehicle. At the hearing, the Claimant testified that on May 9, 2020, he was driving his 2010 Kia Forte on Interstate 64 near Huntington, Cabell County. He was following a tractor trailer and observed a cloud of white dust come up from the roadway when the tractor trailer crossed a bridge. When the Claimants' vehicle crossed the bridge, their vehicle struck an object situated in the traveling lane of the roadway. He believed that the object was a large piece of concrete. The Claimant testified that he did not believe that the Respondent had been notified of the object's presence in the road. The Claimant submitted invoices in the amount of \$194.51; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any objects, including large pieces of concrete, in the roadway on the date of the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual

or constructive notice of large pieces of concrete or other objects situated in the Respondent's right or way or the traveling portion of the roadway on Interstate 64 prior to the date of the Claimant's incident.

AMOUNT CLAIMED: \$194.51

AMOUNT AWARDED: \$0.00

**CC-18-1604 CHARLES D. SIMMONS v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on October 21, 2018, he was driving his 2013 Ford Taurus on West Virginia Route 38 near Valley Furnace, Barbour County. As he drove over Pifer Mountain, the Claimant testified that the road was covered with snow and had not yet been plowed or treated with salt. As the Claimant drove around a curve, he encountered a tree that had fallen in the roadway, blocking his lane of travel. His vehicle struck the tree. He testified that he did not know whether the Respondent was aware of the fallen tree. The Claimant submitted an estimate in the amount of \$4,744.52; he did not carry collision insurance on his vehicle.

The Respondent disputed the validity of the claim, asserting that it had no notice concerning any issues with this tree prior to the date of the Claimant's incident. The Respondent's witness testified that the the local office had not received any call or complaints concerning this tree prior to the Claimant's incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of the fallen tree on West Virginia Route 38 prior to the date of the Claimant's incident.

AMOUNT CLAIMED: \$4,744.52

AMOUNT AWARDED: \$0.00

**CC-21-0174 CHRISTINA BETH SIRBAUGH v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on March 1, 2021, she was driving her 2000 Honda Accord on Smith Creek Road in Tornado, Kanawha County when she encountered high water in the roadway. The Claimant testified that she observed a warning sign in an area where the road was dry; she drove through the high water. The Claimant testified that she did not know if the Respondent was aware of the flooding of Smith Creek Road and she did not know who had set up the warning sign. . The Claimant testified that according to Kelly Blue Book, her vehicle had a value of \$1,487.00; she did not carry collision insurance on her vehicle.

The Respondent disputed the validity of the claim, asserting that it had notice of potential high water or flooding in the roadway prior to the Claimant's incident. The Respondent's witness testified that the Respondent's work crew set up the warning signs in a dry area where motorists would have enough space to turn around and go another way. He further testified that flood warnings had been issued for the area of Smith Creek Road and the Coal River basin.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimant must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did have actual notice of potential high waters in the traveling portion of the roadway on Smith Creek Road prior to the Claimant's incident. The Claims Commission further found that the Respondent took appropriate measures to post signs to warn motorists on Smith Creek Road that the road may be flooded. The Claims Commission found that in this instance, liability could not be assessed against the Respondent since it took corrective actions within a reasonable time.

AMOUNT CLAIMED: \$1,487.00

AMOUNT AWARDED: \$0.00

#### **CC-16-0639 TIMOTHY W. SMITH AND DARLENE SMITH v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. The Claimants alleged that the drainage system was negligently installed by the Respondent on Richards Creek Road in Elkview, Kanawha County and which led to significant flooding of their property. At the hearing, the Claimant testified that on June 23, 2016, their residential property sustained significant flooding; their residence and gardens sustained significant damage. The Claimants further alleged that the Respondent had improperly constructed a gabion wall on his property that blocked their ability to access an easement. The Claimants submitted an invoice in the amount of \$20,500.00 for repairs to the culvert and gardens. No other documentation or testimony was submitted by the Claimants.

The Respondent disputed the validity of the claim, asserting that the Claimants' property is situated within a natural drainage course. The Respondent further asserted that its responsibilities were limited inasmuch as Richards Creek Road is classified as an orphan road and had been brought into the State's highway system after the road and its accompanying drainage system had been constructed. Lastly, the Respondent asserted that it was not responsible for the installation of the gabion wall and the flood of June 23, 2016 was of catastrophic proportions sufficient to create a state of emergency throughout the State of West Virginia.

The Legislative Claims Commission found that the Claimants failed to prove that the negligence of the Respondent, if any, was the cause of damages to their property. The Claims Commission further found that the evidence before it was insufficient to establish that the Respondent was the party responsible for the construction of the gabion wall. The Claims Commission further found that the Respondent met its duties and responsibilities with respect to its ditches and drainage system on Richards Fork Road.

AMOUNT CLAIMED: \$20,500.00

AMOUNT AWARDED: \$0.00

#### **CC-20-0534 DANNY SUTTON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant testified that on August 10, 2020, he was towing his 2018 Yacht Club Trailer behind his vehicle on Oak Grove Road in Williamstown, Wood County.

The Claimant was traveling around a curve when his vehicle struck a large depression situated at the edge of the roadway. The tire on the Claimant's boat trailer left the driving surface of the roadways and was damaged by the impact with the ground. The Claimant testified that the narrow road had been previously washed out in the area where the incident occurred. The Claimant submitted invoices in the amount of \$644.16; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim. The Respondent's witness testified that while Oak Grove Road is a narrow, single lane road, there was sufficient width for vehicle traveling on this road. He further testified that his office did not receive any calls or complaints about the passability of the road prior to the Claimants' incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of any road defect on Oak Grove Road on the date of the Claimants' incident.

AMOUNT CLAIMED: \$644.16

AMOUNT AWARDED: \$0.00

#### **CC-20-0511 DOUGLAS RAY TAYLOR v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his property. At the hearing, the Claimant testified that water flowing onto his property is causing a slip. He alleged that the ditches along Holsclaw Drive in Elkview, Kanawha County have not been properly maintained which has forced water onto his property. The Claimant testified that he had secured estimates in the amount of \$9,000.00 for a contractor to dig ditches on his property and prepare the slip; however, the Claimant did not submit any detailed documentation in support of this estimate.

The Respondent disputed the validity of the claim, asserting that it had maintained the ditches on a regular basis as part of the Respondent's core maintenance plan. The Respondent's witnesses testified that the Respondent has a narrow right of way on Holsclaw Road and the configuration of the road does not lend itself to multiple ditches and culverts. The witnesses further testified that the Claimant's property is situated in a natural drainage course and they have inspected the area multiple times in response to the Claimant's calls.

The Legislative Claims Commission found that the Claimant's property is situated in a natural drainage course and further finds that the Respondent was responsive to the Claimant's concerns. The Claims Commission further found that the evidence in the record demonstrated that the Respondent had not violated any standards or established duty of care with respect to the Claimant.

AMOUNT CLAIMED: \$9,000.00

AMOUNT AWARDED: \$0.00

**CC-20-0488 JUSTIN WARE AND RACHEL WARE v. DIVISION OF HIGHWAYS**

The Claimants filed this claim alleging that the Respondent's negligence was the cause of damage to their property. At the hearing, the Claimant testified that on July 16, 2020, a heavy rainstorm overwhelmed the Respondent's ditch on the upper side of Chub Run Road in Mount Clare, Harrison County and washed away part of their gravel driveway. She has observed the Respondent's work crew maintaining the ditch but, on this occasion, the ditch was clogged and malfunctioning. The Claimant further testified that they installed a drainage ditch on their property to catch some of the overflow water on Chub Run Road. She further testified that her neighbor also has a ditch installed on their property; this ditch is poorly maintained and also overflows onto their property. The Claimants submitted an invoice related to the cost of the gravel when they first built their driveway but did not submit any documentation as to the cost of repairing the driveway.

The Respondent disputed the validity of the claim, asserting that it had maintained the subject ditch on a regular basis. It further asserted that the flooding on the Claimants' property was a result of the poorly maintained ditch on the neighbor's property and not as a result of the Respondent's drainage system.

The Legislative Claims Commission found that the Claimants did not meet their burden of proof to establish that the Respondent was negligent in its maintenance of the drainage system. The Claims Commission further found that the Respondent met its duties and responsibilities with respect to its drainage system on Chub Run Road and further found that the Respondent cannot be held liable for ditches, culverts and drainage systems situated on private property.

AMOUNT CLAIMED: \$1,800.00

AMOUNT AWARDED: \$0.00

**CC-20-0568 MARY V. WHITE v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to her vehicle. At the hearing, the Claimant testified that on July 6, 2020, a tornado struck her neighborhood on 7<sup>th</sup> Street in Shenandoah Junction, Jefferson County. Two trees situated on the Respondent's right of way fell and struck both her fence and her 2004 Nissan Frontier parked in her driveway. The Claimant was in the process of selling the vehicle and did not have any insurance on the vehicle. Due to the damage, the sale was terminated. The original buyer was going to pay her \$1,000.00; she eventually sold the vehicle for \$500.00 to another buyer. The Claimant testified that based on Kelly Blue Book, her vehicle had a value of \$2,859.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of the condition of the trees prior to the date of the Claimants' incident.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of the trees creating a dangerous situation on 7<sup>th</sup> Street prior to the date of the Claimants' incident.

AMOUNT CLAIMED: \$2,859.00

AMOUNT AWARDED: \$0.00

**CC-20-0329 ERNEST WILLIAMSON v. DIVISION OF HIGHWAYS**

The Claimant filed this claim alleging that the Respondent's negligence was the cause of damage to his vehicle. At the hearing, the Claimant's daughter testified that she was driving the Claimant's 2019 Jeep Cherokee on West Virginia State Route 10 in Cyclone, Wyoming County on April 23, 2020. She encountered some rocks in the roadway; she swerved to avoid striking the rocks and then lost control of the vehicle, instead striking rocks that were situated on the shoulder of the roadway. She did not know how long the rocks had been in the roadway and she did not know whether the Respondent had been notified of the rocks' presence in the road. The Claimant submitted invoices in the amount of \$5,202.88; his collision insurance required a deductible of \$500.00.

The Respondent disputed the validity of the claim, asserting that it had no notice of any rocks in the roadway on the date of the Claimants' incident. The Respondent's investigator testified that it had not received any calls or complaints regarding rocks in the road at this location prior to the Claimant's incident. Moreover, the Respondent did not have any work records indicating that its employees removed rocks from the roadway in this area.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did not have either actual or constructive notice of rocks situated in the traveling portion of the roadway on West Virginia State Route 10 on the date of the Claimants' incident.

AMOUNT CLAIMED: \$5,202.88

AMOUNT AWARDED: \$0.00

**CC-20-0741 DUANE S. YOHO v. DIVISION OF HIGHWAYS**

The Claimant filed this claim to recover the costs associated with the removal of a dead and fallen tree. At the hearing, the Claimant testified that on November 15, 2020, a heavy storm with strong winds blew a tree over which landed on a vehicle belonging to the Claimant's friend. The large tree was located on the Respondent's right of way that was next to the parking lot on Elmwood Avenue in Parkersburg, Wood County. The Claimant testified that to his knowledge, the Respondent had been notified of the fallen tree. However, he opted to hire a company to remove the dead tree and clean up the scene. The Claimant submitted invoices in the amount of \$1,400.00 for the removal of the dead tree.

The Respondent disputed the validity of the claim, asserting that it cannot be held liable for the costs when a private citizen usurps the Respondent's statutory duties. The Respondent further asserted that it had no notice of this tree being a potential danger prior to the date of the Claimants' incident. The Respondent's witness testified that his office had not received any calls or complaints regarding the tree prior to the November 15, 2020 windstorm. He further testified that a work crew went to the scene to remove the tree once it was notified that the tree had blown over; when the work crew arrived to remove the tree, the crew discovered that the tree had already been removed.

The Legislative Claims Commission found that in order to hold the Respondent liable, the Claimants must prove that the Respondent had either actual or constructive notice of the road



defect and a reasonable amount of time to correct the defect. The Claims Commission further found that the evidence presented demonstrated that the Respondent did have either actual or constructive notice of the fallen tree; however, the Claimant did not allow for the Respondent to conduct its duties in a reasonable time as required. The Claims Commission further found that liability cannot attach where the Claimant fails to provide the Respondent the opportunity to correct the defect within a reasonable time.

AMOUNT CLAIMED: \$1,400.00

AMOUNT AWARDED: \$0.00

## **CLAIMS AGAINST THE STATE OF WEST VIRGINIA**

### **CC-19-1473 MICHAEL DWAYNE COOPER v. STATE OF WEST VIRGINIA**

The Claimant filed this action alleging that he was wrongly incarcerated by the State of West Virginia and its officials. The Claimant was arrested in June, 2016 for driving under the influence, driving on a revoked license and possession of marijuana. The Claimant and the State entered into a plea agreement; the Claimant was sentenced to a period of one to three years of incarceration. The Circuit Court of Mingo County suspended the incarceration sentence in favor of alternative sentencing, which permitted the Claimant to attend a substance abuse treatment program for a period of fifteen months. The Claimant was dismissed from the program after failing a drug screen. The Circuit Court entered a “pick up” order for the Claimant; however, the Claimant was not immediately picked up and detained. His criminal attorney filed a motion to dismiss the “pick up” order as the Claimant was now enrolled in an inpatient treatment program. The Claimant was then placed on home confinement and allowed to continue his participation in the drug treatment program. Conflicting Orders were entered by the Circuit Court concerning the Claimant’s release from jail and his placement on home confinement. The Claimant then failed to report to the home confinement office in a timely manner. A probation revocation hearing was held the next month where the Circuit Court ordered that the Claimant to serve the original sentence of one to three years of incarceration. An appeal to the West Virginia Supreme Court ensued; the Supreme Court ultimately reversed the sentencing order and remanded the matter. The Supreme Court ruled that the Circuit Court erred in sentencing the Claimant to one to three years of incarceration when he should have been sentenced to just sixty days for a first offense probation violation. The Claimant was then released from jail, having served eleven months and twenty-five days beyond the sixty day sentence he should have received. The Claimant sought to be compensated for the eleven months and twenty-five days of wrongful incarceration.

The Respondent disputed the validity of the claim in its pleadings and filed a Motion to Dismiss. The basis for the Motion was that the availability of insurance coverage for the claims and allegations the Claimant put forth in his Petition served to defeat the jurisdiction of the Legislative Claims Commission. The availability of insurance permitted the Claimant to file his claim in the courts of the State as set forth in West Virginia Code §14-2-14. The Respondent further asserted that the availability of insurance coverage operated as an exception to the State’s sovereign immunity, which would then allow the claim to go forward in a circuit court.

The Legislative Claims Commission found that it did not have the requisite jurisdiction to entertain the Claimant’s Petition. The Claims Commission further found that the availability of insurance

coverage under the State's liability policy afforded the Claimant the opportunity to pursue his Petition in the courts of the State and further found since there was an exception to the State's sovereign immunity, the Claims Commission was precluded from presiding over the claim. The Claims Commission further found that jurisdiction before the Legislative Claims Commission must be proper before a finding of moral obligation can attach.

AMOUNT CLAIMED: Unspecified

AMOUNT AWARDED: \$0.00

**CC-19-1569 JEFFERY L. STANTON, AS ADMINISTRATOR OF THE ESTATE OF SPENCER LEE CRUMBLEY v. STATE OF WEST VIRGINIA**

The Claimant filed this action seeking to recover damages for the fatal shooting of his decedent. The Claimant filed as the Administrator of the Estate of Spencer Lee Crumbley. On December 17, 2017, the West Virginia State Police were called to Mr. Crumbley's residence after a family altercation escalated. After a confrontation with two State Troopers, Mr. Crumbley was fatally shot and died as a result of gunshot wounds. The Claimant alleged that the Respondent and its employees violated the constitutional rights of Mr. Crumbley on the date of the incident. The Claimant also filed an identical civil action in federal district court.

The Respondent disputed the validity of the claim in its pleadings and filed a Motion to Dismiss. The basis for the Motion was that the availability of insurance coverage for the claims and allegations the Claimant put forth in his Petition served to defeat the jurisdiction of the Legislative Claims Commission. The availability of insurance permitted the Claimant to file his claim in the courts of the State as set forth in West Virginia Code §14-2-14. The Respondent further asserted that the availability of insurance coverage operated as an exception to the State's sovereign immunity, which would then allow the claim to go forward in a circuit court.

The Legislative Claims Commission found that it did not have the requisite jurisdiction to entertain the Claimant's Petition. The Claims Commission further found that the availability of insurance coverage under the State's liability policy afforded the Claimant the opportunity to pursue his Petition in the courts of the State and in this matter, the Claimant has already pursued this option. The Claims Commission further found since there was an exception to the State's sovereign immunity, the Claims Commission was precluded from presiding over the claim. The Claims Commission further found that jurisdiction before the Legislative Claims Commission must be proper before a finding of moral obligation can attach.

AMOUNT CLAIMED: Unspecified

AMOUNT AWARDED: \$0.00