

Court of Claims

ANNUAL REPORT

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Cheryle M. Hall
Clerk of the Court

2010

Annual Report

of the

West Virginia Court of Claims

Cheryle M. Hall,
Clerk

2010

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West Virginia Court of Claims

Judges of the Court

The Honorable John G. Hackney Jr., Presiding Judge

The Honorable Robert B. Sayre, Judge

The Honorable J. David Cecil, Judge

Cheryle M. Hall, Clerk



West Virginia Court of Claims

Presiding Judge
John G. Hackney Jr.
Judges
Robert B. Sayre
J. David Cecil

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Cheryle M. Hall
Clerk
Becky A. Ofiesh
Chief Deputy Clerk

*Honorable Members of the
West Virginia State Legislature*

It is my honor and privilege to present to you, in accordance with the West Virginia Code §14-2-25, the Annual Report of the West Virginia Court of Claims. This Report covers the activities of the Court for the calendar year 2009.

Respectfully submitted,

A handwritten signature in blue ink that reads "Cheryle M. Hall". The signature is written in a cursive style.

*Cheryle M. Hall,
Clerk*

2010

**REPORT TO THE LEGISLATURE
OF THE
COURT OF CLAIMS**

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SUMMARY OF FUNDS FOR CLAIMS BILLS

REGULAR CLAIMS BILL

GENERAL REVENUE FUNDS - \$ 2,159,929.47

SPECIAL REVENUE FUNDS - \$ 81,310.97

STATE ROAD FUND - \$ 1,565,282.71

OVEREXPENDITURE CLAIMS BILL

GENERAL REVENUE FUNDS - \$ 10,221.65

Claims Presented to the 2010 Legislature

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
04-0263	McDaniel, Roy J.	Department of Administration	7,172.00	250.00	5/14/2009
09-0498	Diskriter Inc.	Department of Health and Human Resources	69,011.05	69,011.05	12/22/2009
09-0042	Verizon	Department of Health and Human Resources	5,172.17	5,042.93	1/19/2010
08-0403	Allen, Abner D.	Division of Corrections	113.65	113.65	8/26/2009
09-0114	Astar Abatement Inc.	Division of Corrections	20,411.77	20,411.77	5/14/2009
07-0041	Baker, Ryan	Division of Corrections	126.90	120.00	7/24/2009
09-0408	Davis, Jessie	Division of Corrections	18.85	18.85	11/13/2009
09-0018	Delgado, Miguel	Division of Corrections	50.00	40.00	8/26/2009
09-0087	Eakle, Donald	Division of Corrections	127.05	127.05	5/14/2009
08-0320	Freeland, Aron Joseph	Division of Corrections	149.87	149.87	7/24/2009
09-0432	Glock Inc.,	Division of Corrections	24.00	24.00	11/13/2009
09-0624	Hanna, Mark F.	Division of Corrections	45.85	32.90	1/19/2010
08-0533	McClain, Marlin J.	Division of Corrections	28.55	28.55	7/24/2009
09-0444	McKinney, Roger	Division of Corrections	38.00	38.00	12/22/2009
09-0350	Monongahela Power Company dba Allegheny Power.	Division of Corrections	1,012.40	1,012.40	10/1/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
09-0614	Nibert, Samuel	Division of Corrections	19.85	19.85	1/19/2010
09-0068	Posey, Roy	Division of Corrections	32.90	32.90	7/24/2009
09-0627	Regional Jail and Correctional Facility Authority	Division of Corrections	2,131,927.32	2,131,927.32	1/19/2010
09-0616	Rice, Clifford	Division of Corrections	28.00	28.00	1/19/2010
09-0505	Ricoh Americas Corporation,	Division of Corrections	4,631.29	4,631.29	1/19/2010
07-0149	Allen, John Scott	Division of Highways	unliquidated	19,000.00	12/22/2009
09-0336	Amick, James D.	Division of Highways	254.87	254.87	12/22/2009
09-0082	Anderson, William D.	Division of Highways	580.43	500.00	10/1/2009
07-0325	Anthony, Donna	Division of Highways	2,000.00	2,000.00	10/1/2009
08-0488	Arbogast, Dottie	Division of Highways	522.28	500.00	12/22/2009
08-0469	Armstrong, Stacy	Division of Highways	335.28	217.94	12/22/2009
08-0184	Baney, Sue L.	Division of Highways	394.82	250.00	9/10/2009
09-0028	Bawgus, Carl	Division of Highways	571.20	500.00	1/19/2010
08-0495	Bell, Bonita	Division of Highways	240.40	240.40	12/22/2009
06-0263	Blankenship, Patricia A.	Division of Highways	951.36	951.36	10/1/2009
09-0023	Blasingim, Stephanie D.	Division of Highways	90.10	90.10	11/13/2009
08-0121	Boughner, Larry J. Boughner and Brenda L.	Division of Highways	352.29	317.07	12/22/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
08-0112	Bouvy, Deborah C.	Division of Highways	125.08	125.08	8/26/2009
08-0393	Brickner, Sarah E.	Division of Highways	362.91	362.91	7/8/2009
08-0270	Brown, Michael H.	Division of Highways	457.39	457.39	1/19/2010
08-0193	Burns, Robert E.	Division of Highways	93.97	93.97	9/10/2009
07-0208	Cantis, Daniel Cantis and Deborah	Division of Highways	1,199.44	500.00	8/26/2009
09-0108	Cardwell, Kate Cosby	Division of Highways	690.09	187.50	9/10/2009
08-0314	Chumley, Jeffery S.	Division of Highways	1,138.39	250.00	8/26/2009
08-0517	Coberly, Thomas G.	Division of Highways	246.93	246.93	12/22/2009
07-0279	Cochran, John S. Cochran and Jami L.	Division of Highways	944.67	500.00	7/8/2009
08-0129	Corcoglioniti, Michael A.	Division of Highways	485.58	200.00	8/26/2009
09-0007	Cranfield, Tammy	Division of Highways	870.98	100.00	11/13/2009
08-0404	Darnell, Bobby P.	Division of Highways	2,526.76	2,366.55	1/19/2010
07-0320	Davis, Danny R. Davis and Sonya	Division of Highways	1,017.88	500.00	7/8/2009
07-0310	Day, Shane A.	Division of Highways	442.29	442.29	7/24/2009
08-0397	Dean, James W.	Division of Highways	191.32	191.32	9/10/2009
07-0218	Drake, Rosalind	Division of Highways	643.59	100.00	12/22/2009
08-0089	Durand, Donna Durand and Walter	Division of Highways	280.79	280.79	7/8/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
08-0231	Eddy, Bernard Eddy and Reta June	Division of Highways	379.13	379.13	9/10/2009
08-0387	Elischer, Karen	Division of Highways	172.78	172.78	1/19/2010
08-0307	Elko Jr., John R.	Division of Highways	196.73	196.73	9/10/2009
09-0307	Elliott, James W.	Division of Highways	145.54	145.54	1/19/2010
08-0177	Farley, Judy Lynn	Division of Highways	118.16	118.16	1/19/2010
08-0242	Farley, Kevin	Division of Highways	461.00	250.00	1/19/2010
09-0026	Ferrell, Jeffrey Ferrell and Melissa	Division of Highways	1,612.08	500.00	11/13/2009
08-0174	Fields, Nika Mai	Division of Highways	262.28	262.28	8/26/2009
08-0536	Finley, Susan Renee	Division of Highways	1,355.42	580.00	11/13/2009
08-0156	Fling, Gary R. Fling and Tracy A.	Division of Highways	998.33	250.00	12/22/2009
08-0199	Floyd, Linda L.	Division of Highways	1,555.05	1,555.05	8/26/2009
09-0031	Ford, Larry D.	Division of Highways	200.87	200.87	11/13/2009
08-0482	Freshwater, Thomas H.	Division of Highways	551.94	250.00	10/1/2009
08-0313	Garnes, Donald	Division of Highways	531.25	500.00	7/8/2009
08-0465	Gawthrop, Stephen J.	Division of Highways	258.90	249.19	1/19/2010
08-0190	Gordon, Justin Gordon and Allison	Division of Highways	978.36	978.36	9/10/2009
08-0420	Greene, Gerald E.	Division of Highways	205.75	205.75	1/19/2010

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
08-0128	Greene II, Richard R.	Division of Highways	694.94	694.94	10/1/2009
08-0211	Gregory, Charles	Division of Highways	1,000.00	1,000.00	1/19/2010
08-0262	Haldren, Lori	Division of Highways	158.96	158.96	7/8/2009
09-0092	Hardy, Jason E.	Division of Highways	500.00	500.00	9/10/2009
07-0175	Hargett, Marilyn T.	Division of Highways	57.19	57.19	1/19/2010
08-0327	Harris, Lee	Division of Highways	255.00	254.40	11/13/2009
08-0344	Hassig, James H. Hassig and Teresa A.	Division of Highways	319.39	319.39	7/8/2009
09-0025	Helmick, Dennis	Division of Highways	484.56	383.86	1/19/2010
07-0255	Helmick, Paul D.	Division of Highways	4,800.00	1,158.10	10/1/2009
08-0274	Herold, Melissa Herold and Herbert H.	Division of Highways	333.05	333.05	7/8/2009
08-0145	Hicks, Anthony M.	Division of Highways	491.79	250.00	7/24/2009
08-0065	Holley, Wesley B.	Division of Highways	440.70	352.56	7/8/2009
08-0147	Huffman, Wandell	Division of Highways	815.14	500.00	7/24/2009
08-0405	Hyre, Melvin R.	Division of Highways	111.25	111.25	12/22/2009
08-0381	Iddings, Mona L.	Division of Highways	144.16	144.16	9/10/2009
08-0412	Isner, Melissa Isner and Robert	Division of Highways	866.21	286.75	1/19/2010
08-0061	Johnson, Amber	Division of Highways	100.00	100.00	7/8/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
08-0336	Johnson, Jerry L. Johnson and Earlene	Division of Highways	752.55	500.00	7/8/2009
08-0225	Johnson, Rose Anna Johnson and Ronald Wayne	Division of Highways	258.44	232.60	12/22/2009
09-0024	Johnson, Terry Blaine McManaway and Elyssa Jo	Division of Highways	225.82	225.82	1/19/2010
08-0090	Jones, Alvin Jackson Jones and Teresa Elaine	Division of Highways	346.05	346.05	7/8/2009
08-0334	Katiny M.D., Antoine	Division of Highways	454.61	454.61	7/8/2009
08-0212	Keffer, Gregory L.	Division of Highways	500.00	500.00	12/22/2009
09-0306	Kelley, Katrina S. Kelley and Michel L.	Division of Highways	538.73	500.00	12/22/2009
06-0110	Ketterman, Gary Allen	Division of Highways	3,100.00	3,100.00	1/19/2010
08-0278	Keyser, Howard L.	Division of Highways	133.13	133.13	7/8/2009
04-0010	Kinder, Leigh Ann	Division of Highways	75,000.00	30,000.00	7/24/2009
08-0492	King, Paul Joseph	Division of Highways	452.49	452.49	1/19/2010
08-0009	Kipp, Gregory S.	Division of Highways	911.09	500.00	8/26/2009
06-0238	Kiser, Admin. of the Estate of Melvin Kiser, Donna	Division of Highways	unliquidated	300,000.00	12/22/2009
06-0238	Kiser, Admin. Of the Estate of Michael Kiser, Donna	Division of Highways	unliquidated	610,000.00	12/22/2009
08-0390	Lawrence, Clark A.	Division of Highways	2,497.41	2,497.41	7/8/2009
08-0118	Levy, Kelly M. Levy and Peter D.	Division of Highways	500.00	500.00	7/8/2009
07-0334	Lorenzo, Barbara A. and Lou	Division of Highways	977.38	500.00	1/19/2010

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
09-0106	Mann, Christopher N. Mann and Meresa	Division of Highways	326.95	261.56	10/1/2009
08-0017	Mayo, Doris C.	Division of Highways	86.50	86.50	7/8/2009
08-0395	McClanahan, Plura	Division of Highways	257.77	257.77	7/8/2009
08-0450	McCoy, Sherry	Division of Highways	1,056.47	500.00	10/13/2009
03-0161	Merigo, Michele	Division of Highways	122,500.00	122,500.00	11/13/2009
09-0019	Metz, Lisa Metz and Brian K.	Division of Highways	257.32	257.32	8/26/2009
08-0438	Miller, Ronda L.	Division of Highways	496.76	496.76	10/1/2009
08-0473	Miller, Roy H.	Division of Highways	398.56	200.00	11/13/2009
08-0451	Morrone, Richard P.	Division of Highways	702.20	702.20	7/8/2009
07-0165	Myers, Teresa M. Myers and Anthony D.	Division of Highways	813.55	400.00	12/22/2009
09-0011	Nash, Stanley G.	Division of Highways	1,035.68	1,000.00	1/19/2010
08-0029	Newman, Richard L. and Marqueta Sue	Division of Highways	281.50	281.50	7/8/2009
08-0063	Nigh, Ernestine	Division of Highways	420.36	200.00	1/19/2010
05-0420	Oney, Michelle D.	Division of Highways	1,289.76	500.00	7/8/2009
09-0135	Orndorff, Gary Orndorff and Kathryn	Division of Highways	1,631.70	350.00	1/19/2010
08-0240	Pickens, Jason Robert	Division of Highways	341.75	341.75	9/10/2009
08-0273	Pleasant Jr., Eugene	Division of Highways	311.92	280.73	7/8/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
08-0430	Post, Sherry L.	Division of Highways	884.04	530.43	12/22/2009
06-0045	Powers, Stanley E. Powers and Francis	Division of Highways	150,000.00	50,000.00	1/19/2010
08-0176	Price, Ronald Lee	Division of Highways	411.73	411.73	7/8/2009
08-0044	Pritt, Tamara	Division of Highways	22.74	22.74	7/8/2009
08-0408	Pruett, Crystal	Division of Highways	183.23	56.75	7/8/2009
08-0124	Ratliff, David A.	Division of Highways	558.83	378.83	7/8/2009
08-0236	Rawlings, Noah Edward Rawlings and Sherry L.	Division of Highways	300.23	300.23	9/10/2009
07-0079	RLI Insurance Company,	Division of Highways	170,027.85	167,634.95	7/8/2009
08-0452	Robbins, Gail S.	Division of Highways	50.00	50.00	1/19/2010
09-0010	Rogers, Robert L. Rogers and Melissa J.	Division of Highways	993.05	500.00	11/13/2009
08-0233	Sanders, Peggy A.	Division of Highways	54.13	54.13	9/10/2009
05-0329	Schlingmann, Dirk Robert Hugo Schlingmann and Catherine Ellen	Division of Highways	171,842.00	68,250.00	9/23/2009
08-0431	Searls, Randy L.	Division of Highways	539.78	500.00	7/8/2009
09-0174	Shannon, Jana Lynne	Division of Highways	5,436.13	5,436.13	9/10/2009
08-0423	Shaver Jr., Alicia G. Shaver and Robert H.	Division of Highways	468.75	468.75	1/19/2010
06-0036	Shepard, Kendall C.	Division of Highways	384.47	307.58	9/10/2009
08-0024	Simmons, Sherill A. Simmons and Dick F.	Division of Highways	2,139.18	500.00	12/22/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
08-0442	Six, Greg Six and Ray	Division of Highways	517.15	100.00	9/10/2009
09-0138	Smith, Franklin T.	Division of Highways	289.08	100.00	8/26/2009
08-0410	Snider, Judy K.	Division of Highways	564.10	250.00	12/22/2009
08-0078	Sovine, Kim	Division of Highways	519.29	519.29	8/26/2009
08-0424	Spotloe, Loyd Dale	Division of Highways	543.68	543.68	1/19/2010
09-0075	Stewart, Mary	Division of Highways	564.00	500.00	1/19/2010
07-0369	Summers, Robert L.	Division of Highways	45,000.00	45,000.00	1/19/2010
08-0454	Swecker, Russell G. Swecker and Wanda L.	Division of Highways	490.59	441.54	12/22/2009
09-0111	Tennant, Allen	Division of Highways	90.58	90.58	8/26/2009
08-0335	Vance, K. Brooke	Division of Highways	135.43	135.43	7/8/2009
08-0123	Walter, Judy A.	Division of Highways	67.05	67.05	8/26/2009
09-0065	Walters, Ann S.	Division of Highways	192.87	192.87	8/26/2009
09-0351	White, Carol White and Nancy	Division of Highways	432.68	346.15	1/19/2010
07-0368	Whittaker, Ruth M. Whittaker and Vernon B.	Division of Highways	4,000.00	4,000.00	7/8/2009
08-0494	Wilfong, David	Division of Highways	897.75	897.75	8/26/2009
06-0238	Woods, Robert	Division of Highways	unliquidated	90,000.00	12/22/2009
08-0243	Wright, Robert C. Wright and Kimberly S.	Division of Highways	529.76	500.00	12/22/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
08-0164	Wright, Robin L. Wright and Robert L.	Division of Highways	231.50	231.50	8/26/2009
08-0376	Yoho Sr., Wesley R.	Division of Highways	810.74	500.00	10/1/2009
08-0396	Halstead, John H.	Division of Motor Vehicles	292.50	292.50	8/26/2009
08-0400	Jarvis-Halstead, Joan Lorraine	Division of Motor Vehicles	989.00	989.00	8/26/2009
09-0141	Cooke, Jo Anne	Library Commission	895.63	895.63	5/14/2009
09-0428	Woods, Lynada	Public Service Commission	677.25	677.25	11/13/2009
08-0443	Copley, Sammy Ray	Regional Jail and Correctional Facility Authority	39.16	39.16	5/14/2009
08-0406	Davis, Wallace	Regional Jail and Correctional Facility Authority	62.00	62.00	5/14/2009
08-0018	Funk, Roxanne Lee	Regional Jail and Correctional Facility Authority	4,183.95	2,091.97	7/24/2009
09-0093	Gladhill, Robert	Regional Jail and Correctional Facility Authority	129.99	129.99	5/14/2009
08-0418	Harmon, Larry Edward	Regional Jail and Correctional Facility Authority	426.96	426.96	5/14/2009
07-0264	Jenkins, Robin Diahann	Regional Jail and Correctional Facility Authority	240.00	240.00	12/22/2009
09-0195	Johnson, Joseph J.	Regional Jail and Correctional Facility Authority	871.50	871.50	7/24/2009
07-0270	King, Christina L.	Regional Jail and Correctional Facility Authority	30.00	30.00	10/1/2009
09-0070	McKeiver, Frank	Regional Jail and Correctional Facility Authority	210.94	210.94	5/14/2009
08-0444	Motley II, Roosevelt	Regional Jail and Correctional Facility Authority	1,696.00	1,696.00	7/24/2009
08-0272	Shaver, Terry J.	Regional Jail and Correctional Facility Authority	372.45	372.45	10/1/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Amount Awarded	Date of Opinion
09-0248	Stewart, Robert L.	Regional Jail and Correctional Facility Authority	18.77	18.77	7/24/2009
08-0505	Taylor, Jimmy R.	Regional Jail and Correctional Facility Authority	325.00	140.00	10/1/2009
05-0304	Willett, Kenny S.	West Virginia State Police	277.44	277.44	12/22/2009
			\$3,070,475.85	\$3,806,523.15	

Over-Expenditure Claims Presented to the 2010 Legislature

Claims Against the Division of Corrections

<u>Number</u>	<u>Claimant's Name</u>	<u>Nature of Claim</u>	<u>Amount in Claims Bill</u>	<u>Date of Opinion</u>
CC 09-0503	Monongalia General Hospital	medical services rendered to inmate(s).	5,085.90	1/19/2010
CC 09-0391	Montgomery General Hospital	medical services provided to inmate(s).	5,135.75	12/22/2009
Agency total:			\$10,221.65	
Grand total:			\$10,221.65	

Disallowed Claims Presented to the 2010 Legislature

Number	Name of Claimant	Name of Respondent	Amount Claimed	Final Disposition	Date of Opinion
08-0321	Gray, Calvin G.	Division of Corrections	1,237.00	Disallowed	8/26/2009
07-0308	Harrison, William	Division of Corrections	27.11	Disallowed	7/24/2009
07-0371	Owens, Charles	Division of Corrections	125.00	Disallowed	7/24/2009
08-0380	Beaver, John Holt	Division of Highways	368.79	Disallowed	11/13/2009
08-0380	Beaver, John Holt	Division of Highways	368.79	Disallowed	11/13/2009
08-0025	Clayton, Diane E. Clayton and William D.	Division of Highways	476.97	Disallowed	8/26/2009
08-0083	Clayton, Roberta	Division of Highways	4,900.00	Disallowed	5/14/2009
08-0175	Daugherty, Earl R. Daugherty and Mary	Division of Highways	847.08	Disallowed	10/1/2009
07-0003	Hash, Terri	Division of Highways	298.87	Disallowed	5/14/2009
08-0182	Holley, Loretta	Division of Highways	500.00	Disallowed	8/26/2009
08-0529	Johnson, Rachel E.	Division of Highways	unliquidated	Disallowed	11/13/2009
09-0067	Joliff, Robert Joliff and Beverly	Division of Highways	1,017.60	Disallowed	12/22/2009
07-0277	Meeks, Curtis Meeks and Lora	Division of Highways	98,000.00	Disallowed	1/22/2010
08-0370	Morgan, Richard E. Morgan and Shirlene L.	Division of Highways	950.72	Disallowed	9/10/2009

Number	Name of Claimant	Name of Respondent	Amount Claimed	Final Disposition	Date of Opinion
09-0005	Mozingo, Peggy	Division of Highways	200.00	Disallowed	10/1/2009
08-0310	Norman, Ronald A.	Division of Highways	720.12	Disallowed	9/10/2009
07-0363	Reno, Mary E.	Division of Highways	297.95	Disallowed	12/22/2009
08-0108	Summers, Diana L.	Division of Highways	1,216.24	Disallowed	5/14/2009
08-0500	Rogers, Gregory M.	Legislative Auditor's Office	418.36	Disallowed	11/13/2009
			\$111,970.60		

COURT OF CLAIMS

ABSTRACTS OF CLAIMS AWARDED

CLAIM AGAINST DEPARTMENT OF ADMINISTRATION

CC-04-0263 ROY J. MCDANIEL V. DEPARTMENT OF ADMINISTRATION

The parties stipulated to the following: On or about March 27, 2004, claimant purchased what he believed was a 1987 International dump truck from respondent for \$4,000.00 at a public auction under an "as is" condition. On or about March 27, 2004, claimant discovered said International dump truck was, in fact, a 1986 model year and not a 1987 model year based upon the issued Certificate of Title. The parties agree that a discrepancy, or inaccuracy, existed relative to the model of year of the International dump truck during presentation of said dump truck at the public auction and upon the bill of sale. The parties agree that due to the discrepancy, or inaccuracy, respondent shall pay claimant \$250.00 for a good faith settlement of all claims and demands of claimant in this matter. The Court concludes that \$250.00 is a fair and reasonable settlement of this claim.

AMOUNT CLAIMED: \$7,172.00

AMOUNT AWARDED: \$250.00

CLAIMS AGAINST DEPARTMENT OF HEALTH AND HUMAN RESOURCES

CC-09-0498 DISKRITER INC. V. DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Claimant seeks payment in the amount of \$69,011.05 for medical transcription outsourcing services provided at the request of Welch Community Hospital. In its Answer, respondent admits the validity of the claim as well as the amount, and states that there were sufficient funds expired in that appropriate fiscal year from which the invoice could have been paid.

AMOUNT CLAIMED: \$69,011.05

AMOUNT AWARDED: \$69,011.05

CC-09-0042 VERIZON V. DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Claimant seeks to recover \$5,172.17 for services provided to respondent. In its Answer, respondent admits the claim in the amount of \$5,042.93 and states that sufficient funds were expired at the end of the fiscal year in which the claim could have been paid. Respondent further states that it denies payment in the amount of \$129.24 since the State is tax exempt. Claimant agrees to the amended amount.

AMOUNT CLAIMED: \$5,172.17

AMOUNT AWARDED: \$5,042.93

CLAIMS AGAINST DIVISION OF CORRECTIONS

CC-08-0403 ABNER D. ALLEN V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, a facility of respondent, brought this claim to recover the value of certain personal property items that he alleges were lost by the respondent. Respondent admits liability in this matter.

AMOUNT CLAIMED: \$113.65

AMOUNT AWARDED: \$113.65

CC-09-0114 ASTAR ABATEMENT INC. V. DIVISION OF CORRECTIONS

Claimant seeks to recover \$20,411.77 for additional services that claimant provided during an asbestos abatement project for respondent. Respondent admits the validity of the claim as well as the amount and states that there were sufficient funds expired in that appropriate fiscal year from which the invoice could have been paid.

AMOUNT CLAIMED: \$20,411.77

AMOUNT AWARDED: \$20,411.77

CC-07-0041 RYAN BAKER V. DIVISION OF CORRECTIONS

Claimant, a former inmate at the Mount Olive Correctional Complex, a facility of the respondent, brought this claim to recover the value of certain personal property items that he alleges were lost by the respondent. The Court finds that \$120.00 is a fair and reasonable amount to compensate the claimant for his lost belongings.

AMOUNT CLAIMED: \$126.90

AMOUNT AWARDED: \$120.00

CC-09-0408 JESSIE DAVIS V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, seeks to recover \$18.85 for his personal property that was stolen. In its Answer, respondent admits the validity of the claim.

AMOUNT CLAIMED: \$18.85

AMOUNT AWARDED: \$18.85

CC-09-0018 MIGUEL DELGADO V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, a facility of the respondent, brought this claim to recover the value of certain personal property items that were seized and destroyed by the respondent. The Court finds that claimant is entitled to an award.

AMOUNT CLAIMED: \$50.00

AMOUNT AWARDED: \$40.00

CC-09-0087 DONALD EAKLE V. DIVISION OF CORRECTIONS

Claimant, an inmate, seeks to recover \$127.05 in personal property that he alleges was misplaced by respondent. The Court finds that claimant is entitled to an award.

AMOUNT CLAIMED: \$127.05

AMOUNT AWARDED: \$127.05

CC-08-0320 ARON JOSEPH FREELAND V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, a facility of the respondent, brought this claim to recover the value of certain personal property items that he alleges were lost by respondent. Respondent admits liability in this matter. Since the claimant has provided receipts for the missing items, the Court finds that \$149.87 represents a fair and reasonable reimbursement to the claimant for his lost property.

AMOUNT CLAIMED: \$149.87

AMOUNT AWARDED: \$149.87

CC-09-0432 GLOCK INC. V. DIVISION OF CORRECTIONS

Claimant seeks to recover \$24.00 for a bench mat purchased by respondent. Claimant has not received payment for this item. In its Answer, respondent admits the validity of the claim as well as the amount, and states that sufficient funds expired in that appropriate fiscal year from which the invoice could have been paid.

AMOUNT CLAIMED: \$24.00

AMOUNT AWARDED: \$24.00

CC-09-0624 MARK F. HANNA V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, seeks to recover \$45.85 for personal property items that were stolen. Respondent admits liability in the claim.

AMOUNT CLAIMED: \$45.85

AMOUNT AWARDED: \$32.90

CC-08-0533 MARLIN J. MCCLAIN V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, a facility of the respondent, seeks to recover the value of property that was kept in the respondent's possession and was stolen. Respondent contends that it made reasonable efforts to secure the property. The Court finds that the claimant's property was not adequately secured at the time of the incident, and the claimant is entitled to recover the value of his lost property.

AMOUNT CLAIMED: \$28.55

AMOUNT AWARDED: \$28.55

CC-09-0444 ROGER MCKINNEY V. DIVISION OF CORRECTIONS

Claimant seeks to recover personal property that was stolen from respondent's facility. In its Answer, respondent admits the validity of the claim.

AMOUNT CLAIMED: \$38.00

AMOUNT AWARDED: \$38.00

CC-09-0350 MONONGAHELA POWER COMPANY dba ALLEGHENY POWER v. DIVISION OF CORRECTIONS

Claimant seeks to recover \$1,012.40 for services that it provided to respondent for which it did not receive payment. Claimant performed emergency repairs at the Pruntytown Correctional Center. In its Amended Answer, respondent admits the validity of the claim as well as the amount, and states that there were sufficient funds expired in that appropriate fiscal year from which the invoice could have been paid.

AMOUNT CLAIMED: \$1,012.40

AMOUNT AWARDED: \$1,012.40

CC-09-0614 SAMUEL NIBERT V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, seeks to recover \$19.85 for personal property that was stolen from respondent's facility. In its Answer, respondent admits liability in this claim.

AMOUNT CLAIMED: \$19.85

AMOUNT AWARDED: \$19.85

CC-09-0068 ROY POSEY V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, brought this claim to recover the value of personal property that was kept in the respondent's possession and was stolen. Respondent contends that it made reasonable efforts to secure the property and is not responsible for the actions of thieves. The Court finds that the claimant's property was not adequately secured at the time of the incident, and the claimant is entitled to recover the value of his lost property.

AMOUNT CLAIMED: \$32.90

AMOUNT AWARDED: \$32.90

CC-09-0627 REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY V. DIVISION OF CORRECTIONS

Claimant seeks to recover \$2,131,927.32 in per diem charges for housing inmates at its facilities during the 2009 fiscal year. Inmates were housed at the Central, Eastern, North Central, Northern, Potomac Highlands, South Central, Southern, Southwestern, Tygart Valley, and Western Regional Jails. Respondent, in its Answer, asserts that payment of this claim must be awarded in accordance with the principles established by the Court in *County Comm'n of Mineral County v. Div. of Corrections*, 18 Ct. Cl. 88 (1990), wherein the Court found that the claimant was entitled to be compensated for its expenses in housing inmates who were actually wards of the respondent.

AMOUNT CLAIMED: \$2,131,927.32

AMOUNT AWARDED: \$2,131,927.32

CC-09-0616 CLIFFORD RICE V. DIVISION OF CORRECTIONS

Claimant, an inmate at the Mount Olive Correctional Complex, seeks to recover \$28.00 for personal property that was stolen from respondent's facility. Respondent, in its Answer, admits liability in this claim.

AMOUNT CLAIMED: \$28.00

AMOUNT AWARDED: \$28.00

CC-09-0505 RICOH AMERICAS CORPORATION V. DIVISION OF CORRECTIONS

Claimant seeks to recover \$4,631.29 in unpaid invoices billed on office supplies. In its Answer, respondent admits the validity of the claim as well as the amount, and states that there were sufficient funds expired in that appropriate fiscal year from which the invoice could have been paid.

AMOUNT CLAIMED: \$4,631.29

AMOUNT AWARDED: \$4,631.29

CLAIMS AGAINST DIVISION OF HIGHWAYS

CC-07-0149 JOHN SCOTT ALLEN V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of U.S. Route 40 in Wheeling, Ohio County. On or around May 13, 2005, claimant's house suffered damage as a result of a tree fall. The claimant alleges that said tree was suffering from decay. For the purposes of settlement, respondent acknowledges culpability for the preceding incident. The parties agree that an award of \$19,000.00 would be a fair and reasonable amount to settle this claim.

AMOUNT CLAIMED: Unliquidated

AMOUNT AWARDED: \$19,000.00

CC-09-0336 JAMES D. AMICK V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 1999 Ford Taurus struck a hole in the main traveled portion of County Route 44/2 in Leivasy, Nicholas County. The Court found respondent negligent.

AMOUNT CLAIMED: \$254.87

AMOUNT AWARDED: \$254.87

CC-09-0082 WILLIAM D. ANDERSON V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2006 BMW struck a hole on U.S. Route 250 near Moundsville, Marshall County. The size of the hole and its location lead th Court to conclude that respondent had notice of this condition. Thus, the Court found respondent negligent.

AMOUNT CLAIMED: \$580.43

AMOUNT AWARDED: \$500.00

CC-07-0325 DONNA ANTHONY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On or around September 24, 2007, claimant fell in a hole and broke her leg in the rest area parking lot at Mineral Wells. Respondent is responsible for the maintenance of state rest area parking lots which it failed to maintain properly on the date of this incident. As a result, claimant sustained a broken leg. Respondent agrees that the amount of \$2,000.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$2,000.00

AMOUNT AWARDED: \$2,000.00

CC-08-0488 DOTTIE ARBOGAST V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2007 Hyundai Santa Fe struck a hole as she was driving south on State Route 92 in Preston County. Since the road was not adequately maintained at the time of this incident, the Court finds respondent negligent.

AMOUNT CLAIMED: \$522.28

AMOUNT AWARDED: \$500.00

CC-08-0469 STACY ARMSTRONG V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her vehicle struck a hole on the edge of East Dailey Road in Dailey, Randolph County. Since the edge of the road was in disrepair, the Court finds respondent negligent. The Court also finds that claimant was negligent since her vehicle drifted towards the berm even though there was no oncoming traffic. The Court finds that claimant's negligence equals thirty-five percent (35%) of her loss.

AMOUNT CLAIMED: \$335.28

AMOUNT AWARDED: \$217.94

CC-08-0184 SUE L. BANEY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2006 Ford 500 struck a hole on Mount Harmony Road, designated as County Route 73/1 in Fairmont, Marion County. The size of the hole leads the Court to conclude that respondent had notice of this condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$394.82

AMOUNT AWARDED: \$250.00

CC-09-0028 CARL BAWGUS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2000 Cadillac El Dorado struck a hole as he was driving on the Pettus Bridge on State Route 3 in Raleigh County. The Court finds that respondent failed to patch the hole in a timely manner.

AMOUNT CLAIMED: \$571.20

AMOUNT AWARDED: \$500.00

CC-08-0495 BONITA BELL V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 1999 Cadillac struck a loose delineator on I-79 North at mile post 22 near Clendenin, Kanawha County. The Court finds that respondent had, at the least, constructive notice of the delineator which claimant's vehicle struck and that it presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$240.40

AMOUNT AWARDED: \$240.40

CC-06-0263 PATRICIA A. BLANKENSHIP V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2002 Ford Thunderbird struck loose pieces of asphalt on I-64 East in Institute, Kanawha County. The Court is of the opinion that respondent had, at the least, constructive notice of the loose pieces of asphalt which claimant's vehicle struck and that this condition presented a hazard to the traveling public.

AMOUNT CLAIMED: \$951.36

AMOUNT AWARDED: \$951.36

CC-09-0023 STEPHANIE D. BLASINGIM V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2008 Honda Accord struck a hole located on Tupper's Creek Road, designated as County Route 29, in Sissonville, Kanawha County. The size of the hole and its location lead the Court to conclude that respondent had notice of the hole. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$90.10

AMOUNT AWARDED: \$90.10

CC-08-0121 LARRY J. BOUGHNER AND BRENDA L. BOUGHNER V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2002 Pontiac Grand Prix struck a hole while claimant Brenda L. Boughner was driving on State Route 31, approximately two miles from Williamstown, in Wood County. The size of the hole and its location lead the Court to conclude that respondent had notice of this hazardous condition. The Court is also of the opinion that the driver was negligent since she was aware of the condition of the road and did not notify respondent. Thus, the driver's negligence equals ten percent (10%), and the award was reduced accordingly.

AMOUNT CLAIMED: \$352.29

AMOUNT AWARDED: \$317.07

CC-08-0112 DEBORAH C. BOUVY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2006 Honda Civic struck a hole on Fairmont Avenue in Fairmont, Marion County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public.

AMOUNT CLAIMED: \$125.08

AMOUNT AWARDED: \$125.08

CC-08-0393 SARAH E. BRICKNER V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her vehicle struck a hole on U.S. Route 35. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public.

AMOUNT CLAIMED: \$362.91

AMOUNT AWARDED: \$362.91

CC-08-0270 MICHAEL H. BROWN V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 1989 Honda Civic struck a hole as he was driving on Fort Martin Road, designated as County Route 53, in Monongalia County. The Court finds respondent negligent.

AMOUNT CLAIMED: \$457.39

AMOUNT AWARDED: \$457.39

CC-08-0193 ROBERT E. BURNS V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On March 23, 2009, while claimant was driving his 2006 Hyundai Elantra from Lumberport, Harrison County to New Martinsville, Wetzel County, on State Route 20, his vehicle struck a hole in the road. Respondent is responsible for the maintenance of State Route 20 which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$93.97 for the damages is fair and reasonable.

AMOUNT CLAIMED: \$93.97

AMOUNT AWARDED: \$93.97

CC-07-0208 DANIEL CANTIS AND DEBORAH CANTIS V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On June 8, 2007, between 11:00 a.m. and 12:00 p.m., the claimants' son, Dean Cantis, was traveling toward Morgantown, Monongalia County, on State Route 81 when the 1998 Chevrolet Blazer he was driving struck a twenty-inch piece of metal joiner strip located on the interstate overpass bridge. Respondent is responsible for the maintenance of State Route 81 which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$500.00 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$1,199.44

AMOUNT AWARDED: \$500.00

CC-09-0108 KATE COSBY CARDWELL V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2001 Pontiac Grand Am struck rocks on U.S. Route 52 in Bluewell, Mercer County. The Court finds that respondent knew that this area is prone to rock falls. However, no warning signs were placed at this location. Thus, the Court finds respondent negligent. The Court also finds that claimant was negligent in failing to reduce her speed when she was aware that rocks fall at this location. The Court finds that claimant's negligence equals twenty-five (25%) percent of her loss.

AMOUNT CLAIMED: \$690.09

AMOUNT AWARDED: \$187.50

CC-08-0314 JEFFERY S. CHUMLEY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2008 Harley Davidson motorcycle struck two holes on the entrance ramp as he was merging on I-79 South from the Meadowbrook Exit in Bridgeport, Harrison County. Although respondent had performed maintenance at this location, the patchwork proved inadequate at the time of the incident. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$1,138.39

AMOUNT AWARDED: \$250.00

CC-08-0517 THOMAS G. COBERLY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2003 Chrysler PT Cruiser struck a hole as he was driving south on US Route 250 near Belington, Barbour County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public. Since there were multiple holes at this location, the Court finds respondent negligent.

AMOUNT CLAIMED: \$246.93

AMOUNT AWARDED: \$246.93

CC-07-0279 JOHN S. COCHRAN AND JAMI L. COCHRAN V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On September 5, 2007, claimants were traveling on State Route 62 in Leon, Mason County, when their vehicle struck a hole in the road damaging the vehicle's tires. Respondent was responsible for the maintenance of State Route 62 which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$500.00 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$944.67

AMOUNT AWARDED: \$500.00

CC-08-0129 MICHAEL A. CORCOGLIONITI V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when claimant maneuvered his 2008 Honda Accord onto the curb to avoid holes on Virginia Avenue in Bridgeport, Harrison County. The Court is of the opinion that respondent had, at the least, constructive notice of the holes in this particular area and that the holes created a hazardous condition to the traveling public. The Court is also of the opinion that the claimant over-corrected the vehicle when his vehicle struck the curb. The Court finds that the claimant's negligence equals twenty-percent (20%).

AMOUNT CLAIMED: \$485.58

AMOUNT AWARDED: \$200.00

CC-09-0007 TAMMY CRANFIELD V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On April 26, 2008, claimant was traveling on Flatwoods Road in Mason County when her vehicle struck a hole in the road damaging the vehicle's tires. Respondent is responsible for the maintenance of Flatwoods Road which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$100.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$870.98

AMOUNT AWARDED: \$100.00

CC-08-0404 BOBBY P. DARNELL V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On August 29, 2008, claimant's daughter, Tina A. Weaver, was driving the claimant's 1998 Chevrolet Silverado truck on State Route 20 South, approximately four miles north of Hinton, Summers County, when a portion of a dead tree fell on the vehicle. Respondent is responsible for the maintenance of State Route 20 which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$2,366.55 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$2,526.76

AMOUNT AWARDED: \$2,366.55

CC-07-0320 DANNY R. DAVIS AND SONYA DAVIS V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2006 Chevrolet Malibu struck a hole on W.Va. Route 62 as claimant, Danny Davis, was driving in West Columbia, Mason County. The size of the hole and the time of year in which this incident occurred leads the Court to conclude that respondent had notice of this hazardous condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$1,017.88

AMOUNT AWARDED: \$500.00

CC-07-0310 SHANE A. DAY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2002 Ford Mustang struck a piece of concrete while he was driving across the bridge on W.Va. Route 60 past the Huntington Mall in Cabell County. The size of the loose piece of asphalt and the time of the year in which the incident occurred leads the Court to conclude that respondent had notice of this hazardous condition, and respondent had an adequate amount of time to take corrective action. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$442.29

AMOUNT AWARDED: \$442.29

CC-08-0397 JAMES W. DEAN V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On March 10, 2008, claimant was traveling north on State Route 2 near Paden City, Tyler County, when his vehicle struck a hole in the road damaging a tire. Respondent is responsible for the maintenance of State Route 2 which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$191.32 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$191.32

AMOUNT AWARDED: \$191.32

CC-07-0218 ROSALIND DRAKE V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On July 10, 2007, claimant's vehicle struck a broken-off sign post at the Cottageville intersection in Jackson County. Respondent is responsible for the maintenance of the road at the Cottageville intersection. As a result of this incident, claimant's vehicle sustained damage to its bumper and tires in the amount of \$643.59. Since claimant's insurance deductible was \$100.00, claimant's recovery is limited to that amount. Respondent agrees that the amount of \$100.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$643.59

AMOUNT AWARDED: \$100.00

CC-08-0089 DONNA DURAND AND WALTER DURAND V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2005 Nissan Maxima struck a series of holes while claimant Donna Durand was traveling on U.S. Route 60 in Culloden, Cabell County. The Court is of the opinion that respondent had, at the least, constructive notice of the holes which claimants' vehicle struck and that the series of holes presented a hazard to the traveling public.

AMOUNT CLAIMED: \$280.79

AMOUNT AWARDED: \$280.79

CC-08-0231 BERNARD EDDY AND RETA JUNE EDDY V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2008 Subaru Impreza struck a hole as Bernard Eddy was driving on County Route 17 near Keystone, Marion County. The size of the hole leads the Court to conclude that respondent had notice of this hazardous condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$379.13

AMOUNT AWARDED: \$379.13

CC-08-0387 KAREN ELISCHER V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On June 23, 2008, claimant's vehicle struck a hole on Big Elk Creek Road in Wallace, Harrison County, causing damage to her vehicle. Respondent is responsible for the maintenance of Big Elk Creek Road which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its tire and wheel in the amount of \$172.78. Respondent agrees that the amount of \$172.78 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$172.78

AMOUNT AWARDED: \$172.78

CC-08-0307 JOHN R. ELKO JR. V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2006 Hyundai Tiburon struck a washed out section of Mount Clare Road, designated as State Route 25, near Lost Creek, Harrison County. The Court is of the opinion that respondent had, at the least, constructive notice of the washed out portion of the road which the claimant's vehicle struck. Although respondent was performing work to clear the roads due to flooding at the time of this incident, the Court finds that the condition of State Route 25 created a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$196.73

AMOUNT AWARDED: \$196.73

CC-09-0307 JAMES W. ELLIOTT V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On May 30, 2009, claimant's vehicle struck a hole on Marshville Road, which is located approximately 200 yards from US Route 50, west of Clarksburg, Harrison County. Respondent is responsible for the maintenance of Marshville Road which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$145.54 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$145.54

AMOUNT AWARDED: \$145.54

CC-08-0177 JUDY LYNN FARLEY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On April 6, 2008, claimant's 2000 Buick Century struck a hole on Stanaford Road in Beckley, Raleigh County. Respondent is responsible for the maintenance of Stanaford Road which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its tire, and the vehicle needed to be re-aligned in the amount of \$118.16. Respondent agrees that the amount of \$118.16 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$118.16

AMOUNT AWARDED: \$118.16

CC-08-0242 KEVIN FARLEY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On April 12, 2008, claimant's 2005 Chevrolet Uplander struck a hole on State Route 85 west of Van, Boone County. Respondent is responsible for the maintenance of State Route 85 which it failed to maintain properly on the date of this incident. As a result, claimant seeks to recover \$461.00 for the damage sustained to his vehicle's wheel. Since claimant's insurance deductible was \$250.00, claimant's recovery is limited to that amount. Respondent agrees that the amount of \$250.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$461.00

AMOUNT AWARDED: \$250.00

CC-09-0026 JEFFREY FERRELL AND MELISSA FERRELL V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when claimant, Jeffrey Ferrell, was driving on I-64 West, and their 2008 Honda Civic struck a hole located before the Teays Valley Exit in Putnam County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimants' vehicle struck and that the hole presented a hazard to the traveling public.

AMOUNT CLAIMED: \$1,612.08

AMOUNT AWARDED: \$500.00

CC-08-0174 NIKA MAI FIELDS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 1999 Honda Accord struck a hole as her husband, Dennis Fields, was traveling on Koon's Run Road, designated as County Route 27, in Marion County. Although respondent had performed maintenance in this area, the patchwork proved inadequate at the time of the claimant's incident. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$262.28

AMOUNT AWARDED: \$262.28

CC-08-0536 SUSAN RENEE FINLEY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2008 Subaru Legacy struck a hole on I-64 West, one half mile before the Teays Valley Exit, in Putnam County. Since there were a series of holes at this location, the Court finds respondent negligent.

AMOUNT CLAIMED: \$1,355.42

AMOUNT AWARDED: \$580.00

CC-08-0156 GARY R. FLING AND TRACY A. FLING V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On March 20, 2008, claimants were traveling in their 1998 Honda Civic in the center lane of 5th Street in Parkersburg, Wood County, when their vehicle struck two holes in the road. Respondent is responsible for the maintenance of 5th Street which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage in the amount of \$998.33. Claimants' insurance deductible was \$250.00. Respondent agrees that the amount of \$250.00 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$998.33

AMOUNT AWARDED: \$250.00

CC-08-0199 LINDA L. FLOYD V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when her 2005 Pontiac GT struck a hole on US Route 33, designated as West Second Street, in Weston, Lewis County. The Court finds that the road hazard sign should have preceded the location of the road work in order to adequately warn the traveling public of this hazard. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$1,555.05

AMOUNT AWARDED: \$1,555.05

CC-09-0031 LARRY D. FORD V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2008 Mercedes Benz struck several holes on I-64, near the Teays Valley entrance ramp, in Putnam County. Since there were numerous holes in claimant's lane of traffic on the interstate, the Court finds respondent negligent.

AMOUNT CLAIMED: \$200.87

AMOUNT AWARDED: \$200.87

CC-08-0482 THOMAS H. FRESHWATER V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2006 Mazda III struck a hole on Eldersville Road, designated as Alternate Route 27, in Follansbee, Brooke County. Although respondent had performed maintenance in this area, the patchwork proved inadequate at the time of claimant's incident. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$551.94

AMOUNT AWARDED: \$250.00

CC-08-0313 DONALD GARNES V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2006 Ford Mustang struck a hole on Sycamore Road in Ripley, Jackson County. Since there were a series of holes in this area, the Court finds that the road was not maintained properly on the date of this incident. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$531.25

AMOUNT AWARDED: \$500.00

CC-08-0465 STEPHEN J. GAWTHROP V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On August 28, 2008, claimant's 2004 Hyundai Elantra struck a piece of concrete that had fallen onto the road from the overpass on I-79 North, past the Weston Exit in Lewis County. Respondent is responsible for the maintenance of I-79 which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage in the amount of \$249.19. Respondent agrees that the amount of \$249.19 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$258.90

AMOUNT AWARDED: \$249.19

CC-08-0190 JUSTIN GORDON AND ALLISON GORDON V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when Justin Gordon was driving the claimants' 2007 Saturn Ion, and their vehicle struck a hole on Koon's Run Road, near Fairmont, Marion County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimants' vehicle struck, and the hole presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$978.36

AMOUNT AWARDED: \$978.36

CC-08-0420 GERALD E. GREENE V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On September 3, 2008, claimant was crossing the bridge on State Route 16/61 in Mount Hope, Fayette County, when he reached an area of the bridge where respondent had placed steel plates. The steel plates were loose, exposing the bridge's steel re-bar rods. Claimant's vehicle struck the protruding re-bar rods, which caused damage to the vehicle's tire. Respondent is responsible for the maintenance of State Route 16/61 which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its tire in the amount of \$205.75. Respondent agrees that the amount of \$205.75 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$205.75

AMOUNT AWARDED: \$205.75

CC-08-0128 RICHARD R. GREENE II V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2000 Audi S4 sedan struck a raised section of pavement on US Route 50, east of Bridgeport, Harrison County. Since the condition on US Route 50 created a hazard to the traveling public, the Court finds respondent negligent.

AMOUNT CLAIMED: \$694.94

AMOUNT AWARDED: \$694.94

CC-08-0211 CHARLES GREGORY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2006 Alpha motor home struck a barrel on I-68 East near Coopers Rock, Preston County. The Court finds that the plastic barrel was not adequately secured to its base. Since the loose barrel was the proximate cause of the damages sustained to claimant's vehicle, the Court finds respondent negligent.

AMOUNT CLAIMED: \$1,000.00

AMOUNT AWARDED: \$1,000.00

CC-08-0262 LORI HALDREN V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On May 27, 2008, at approximately 3:30 p.m., claimant was traveling north on State Route 10 near Huntington, Cabell County, when her vehicle struck a hole in the road damaging a tire. Respondent was responsible for the maintenance of State Route 10 which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its front, passenger side tire and required a wheel balance in the amount of \$158.96. Respondent agrees that the amount of \$158.96 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$158.96

AMOUNT AWARDED: \$158.96

CC-09-0092 JASON E. HARDY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2008 Subaru Impreza Outback Sport struck a hole on W.Va. Route 20 in Speedway, Mercer County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$500.00

AMOUNT AWARDED: \$500.00

CC-07-0175 MARILYN T. HARGETT V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 1998 Ford Escort struck a hole as she was driving on Wilson Lane in Elkins, Randolph County. The hole's location in the center of the road leads the Court to conclude that respondent had notice of this hazard. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$57.19

AMOUNT AWARDED: \$57.19

CC-08-0327 LEE HARRIS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2007 Pontiac Torrent sports utility vehicle struck a hole on I-64 west near the Montrose Exit in Charleston, Kanawha County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and the hole presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$255.00

AMOUNT AWARDED: \$254.40

CC-08-0344 JAMES H. HASSIG AND TERESA A. HASSIG V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On June 7, 2008, claimants were traveling on Pennsylvania Avenue in St. Albans, Kanawha County, when their 2006 Mazda struck a hole in the road. Respondent was responsible for the maintenance of Pennsylvania Avenue which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage to its tire and rim in the amount of \$319.39. Respondent agrees that the amount of \$319.39 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$319.39

AMOUNT AWARDED: \$319.39

CC-09-0025 DENNIS HELMICK V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On January 10, 2009, claimant's 2006 Honda Accord struck a hole on Prickett Creek Road, located off of Exit 139 on I-79 North, in Fairmont, Marion County. Respondent is responsible for the maintenance of Prickett Creek Road which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to two rims and one tire in the amount of \$383.86. Respondent agrees that the amount of \$383.86 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$484.56

AMOUNT AWARDED: \$383.86

CC-07-0255 PAUL D. HELMICK V. DIVISION OF HIGHWAYS

Claimant brought this claim for damage to the driveway of his property, located in Clarksburg, Harrison County, which he alleges occurred as a result of respondent's negligent maintenance of the ditch lines on Strother Lane. Claimant asserts that when there is a heavy rain, water flows from Strother Lane onto County Route 7 and then washes onto thirty feet of his driveway, making it impassible. Since the failure to maintain adequate drainage was the proximate cause of the damages sustained to claimant's property, the Court finds respondent negligent. The Court further finds that \$1,158.10 is a fair and reasonable amount to compensate the claimant for the damages to his property.

AMOUNT CLAIMED: \$4,800.00

AMOUNT AWARDED: \$1,158.10

CC-08-0274 MELISSA HEROLD AND HERBERT H. HEROLD V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2005 Subaru Legacy struck a hole while claimant Melissa Herold was traveling on Dutch Ridge Road, designated as County Route 69, in Clendenin, Kanawha County. The size of the hole and the time of year in which this incident occurred leads the Court to conclude that respondent had notice of this hazardous condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$333.05

AMOUNT AWARDED: \$333.05

CC-08-0145 ANTHONY M. HICKS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2000 Chrysler Concord struck a hole as he was driving on I-64 in Cabell County at the 16th Street overpass. The size of the hole and its location leads the Court to conclude that respondent had notice of this hazardous condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$491.79

AMOUNT AWARDED: \$250.00

CC-08-0065 WESLEY B. HOLLEY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 1994 Ford Aspire struck rocks while he was traveling north on W.Va. Route 2 in Mason County. Although there are falling rock signs located in this area, the Court finds that respondent could have taken further measures to protect the safety of the traveling public at this location. Thus, the Court finds that respondent is liable for the damages to claimant's vehicle. The Court also finds that the claimant was twenty-percent (20%) negligent.

AMOUNT CLAIMED: \$440.70

AMOUNT AWARDED: \$352.56

CC-08-0147 WANDELL HUFFMAN V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2004 PT Cruiser Rally Sport struck a hole as claimant's wife, Patricia Huffman, was driving east on Madison Avenue in Huntington, Cabell County. The size of the hole leads the Court to conclude that respondent had notice of this hazardous condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$815.14

AMOUNT AWARDED: \$500.00

CC-08-0405 MELVIN R. HYRE V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2005 Ford 500 struck a hole on River Road, designated as County Route 26/1, in Webster County. Since there were a series of holes in this area, the Court finds respondent negligent.

AMOUNT CLAIMED: \$111.25

AMOUNT AWARDED: \$111.25

CC-08-0381 MONA L. IDDINGS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2005 Nissan Altima struck chunks of concrete on I-64 near the 5th Street Exit in Huntington, Cabell County. In *Lawrence v. Div. of Highways*, CC-08-0390 (Issued July 8, 2009), claimant's vehicle struck chunks of concrete on I-64 as he was traveling under the 5th Street Bridge on August 2, 2008, in Huntington, Cabell County. The Court found that respondent had, at the least, constructive notice of the potential deterioration of the concrete haunches on the bridge on I-64 and that this condition posed a hazard to the traveling public. Based upon the Court's decision in *Lawrence*, the Court finds respondent negligent.

AMOUNT CLAIMED: \$144.16

AMOUNT AWARDED: \$144.16

CC-08-0412 MELISSA ISNER AND ROBERT ISNER V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On April 4, 2008, claimants' 1992 Toyota Celica struck a hole while Melissa Isner was traveling on Weese Street in Elkins, Randolph County, causing damage to their vehicle. Respondent is responsible for the maintenance of Weese Street which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage to one tire and one rim in the amount of \$286.75. Respondent agrees that the amount of \$286.75 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$866.21

AMOUNT AWARDED: \$286.75

CC-08-0061 AMBER JOHNSON V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On January 24, 2008, claimant was driving on 8th Avenue in Huntington when her vehicle struck two holes that she could not avoid due to oncoming traffic. Respondent was responsible for the maintenance of 8th Avenue which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its tire and rim. Since claimant's insurance deductible at the time of the incident was \$100.00, her recovery is limited to that amount. Respondent agrees that the amount of \$100.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$100.00

AMOUNT AWARDED: \$100.00

CC-09-0024 ELYSSA JO JOHSON AND TERRY BLAINE MCMANAWAY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On December 20, 2008, claimants' 2005 Dodge Stratus struck a hole on the Mabscott Exit from Route 19 in Mabscott, Raleigh County. Respondent is responsible for the maintenance of the Mabscott Exit which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage to its tire and rim in the amount of \$225.82. Respondent agrees that the amount of \$225.82 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$225.82

AMOUNT AWARDED: \$225.82

CC-08-0336 JERRY L. JOHNSON AND EARLENE JOHNSON V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On May 28, 2008, claimant, Earlene Johnson, was traveling on W.Va. Route 10 near Melissa, Cabell County when her vehicle struck a hole in the road, damaging the vehicle's front, right rim and tire. Respondent was responsible for the maintenance of W.Va. Route 10 which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage in the amount of \$752.55. Claimants' insurance deductible was \$500.00. Respondent agrees that the amount of \$500.00 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$752.55

AMOUNT AWARDED: \$500.00

CC-08-0225 ROSE ANNA JOHNSON AND RONALD WAYNE JOHNSON V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2002 Pontiac Grand Am GT struck a hole while claimant Rose Anna Johnson was driving on Walker Road in Wood County. Since there were a series of holes at this location, the Court finds respondent negligent. Notwithstanding the negligence of the respondent, the Court is also of the opinion that the driver was negligent since she could have taken precautions to avoid the hole at this location. The Court finds that the driver's negligence equals ten-percent (10%) of their loss.

AMOUNT CLAIMED: \$258.44

AMOUNT AWARDED: \$232.60

CC-08-0090 ALVIN JACKSON JONES AND TERESA ELAINE JONES V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2005 Suzuki Forenza struck two holes while claimant, Alvin Jackson Jones, was traveling on US Route 60, east of Milton, in Cabell County. The holes' respective sizes leads the Court to conclude that respondent had notice of this hazardous condition.

AMOUNT CLAIMED: \$346.05

AMOUNT AWARDED: \$346.05

CC-08-0334 ANTOINE KATINY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On June 30, 2008, claimant was driving around a curve on US Route 119 in Chapmanville, Logan County, when his 2008 Subaru Outback struck a chunk of concrete that was situated in his lane of travel. Although claimant tried to maneuver his vehicle around the chunk of concrete, he was unable to do so due to the traffic. Respondent was responsible for the maintenance of US Route 119 which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its tire and rim in the amount of \$454.61. Respondent agrees that the amount of \$454.61 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$454.61

AMOUNT AWARDED: \$454.61

CC-08-0212 GREGORY L. KEFFER V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2005 Pontiac Sunfire struck a hole on State Route 62 in Mt. Alto, Mason County. The size of the hole and its location on the road lead the Court to conclude that respondent had notice of this condition.

AMOUNT CLAIMED: \$500.00

AMOUNT AWARDED: \$500.00

CC-09-0306 KATRINA S. KELLEY AND MICHEL L. KELLEY V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2007 Chevrolet HHR struck a rock embedded in the surface of County Route 24 in Spencer, Roane County. The Court finds that the road was in disrepair at the time of this incident. The driver was unable to avoid striking the rock with the vehicle due to the condition of the road. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$538.73

AMOUNT AWARDED: \$500.00

CC-06-0110 GARY ALLEN KETTERMAN V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 1990 Chevrolet Cavalier struck a rock while his daughter, Felicia Ketterman was driving on US Route 220 near Petersburg, Grant County. The Court is of the opinion that respondent had constructive notice of rocks likely to fall at this location on US Route 220. The Court finds that although respondent placed "Falling Rock" signs on US Route 220, respondent failed to take further measures to protect the traveling public at this location. Thus, respondent is liable for the damages to claimant's vehicle.

AMOUNT CLAIMED: \$3,100.00

AMOUNT AWARDED: \$3,100.00

CC-08-0278 HOWARD L. KEYSER V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2007 Chevrolet Monte Carlo struck a hole as he was driving north on W.Va. Route 62 in Hartford, Mason County. The size of the hole and the time of year in which this incident occurred leads the Court to conclude that respondent had notice of this condition on the road. Thus, the Court finds respondent.

AMOUNT CLAIMED: \$133.13

AMOUNT AWARDED: \$133.13

CC-04-0010 LEIGH ANN KINDER V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of Route 3 at or near Seth, which is located in Braxton County, West Virginia. Claimant alleges that on or about January 12, 2002, she was injured when her vehicle while traveling on Route 3, "hit black ice on the roadway surface causing her to lose control of [the] vehicle, [and] run off the roadway on the northern side and strike a tree." In addition, Claimant alleges that the Respondent was notified of black ice in the area prior to the Claimant's accident, and that Respondent had not properly treated the area prior to Claimant's accident. For the purposes of settlement, Respondent acknowledges culpability for the preceding incident. Claimant and Respondent believe that in this particular incident and under these particular circumstances that an award of \$30,000.00 would be a fair and reasonable amount to settle this claim.

AMOUNT CLAIMED: \$75,000.00

AMOUNT AWARDED: \$30,000.00

CC-08-0492 PAUL JOSEPH KING V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On October 26, 2008, claimant's 2006 Mazda struck a hole on I-79 South at mile marker 58.27 in Blue Horizon, Braxton County, causing damage to his vehicle. Respondent is responsible for the maintenance of I-79 which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage in the amount of \$452.49. Respondent agrees that the amount of \$452.49 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$452.49

AMOUNT AWARDED: \$452.49

CC-08-0009 GREGORY S. KIPP V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2003 Pontiac Grand Am struck a piece of asphalt as his son, David William Kipp, was driving on I-79 in Bridgeport, Harrison County. Although respondent had performed maintenance in this area, the Court finds that the road was not adequately maintained at the time of this incident. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$911.09

AMOUNT AWARDED: \$500.00

CC-06-0238 DONNA KISER, AS ADMINISTRATRIX OF THE ESTATES OF MELVIN KISER AND MICHAEL KISER, DECEASED AND ROBERT WOODS, INDIVIDUALLY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of Interstate 64, Cabell County, West Virginia. On or about October 23, 2005, claimant Donna Kiser's decedents, Melvin Kiser and Michael Kiser, and claimant Robert Woods were involved in an accident on Interstate 64 near the 15 mile marker in Cabell County, West Virginia. The claimant's automobile was struck in the rear end by a tractor trailer. The incident occurred approximately 2 miles from a bridge repair construction project that Ahern & Associates, Inc. was performing for the respondent. Melvin and Michael Kiser suffered critical injuries and died as a result of the accident. Robert Woods suffered injuries to his cervical spine and right hip as a result of the accident. The claimants allege that the traffic control plan was inadequate due to traffic routinely backing up beyond the farthest warning sign of the construction project. Moreover, respondent failed to install a sufficient number of warning signs to notify the traveling public of the backup. For the purposes of settlement, respondent acknowledges culpability for the preceding incident.

AMOUNT CLAIMED: Unliquidated

AMOUNT AWARDED: \$300,000.00 to Donna Kiser, Administratrix of the Estate of Melvin Kiser;
\$610,000.00 to Donna Kiser, Administratrix of the Estate of Michael Kiser.

CC-08-0390 CLARK A. LAWRENCE V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 1998 Ford Mustang struck chunks of concrete on I-64 as he was traveling under the 5th Street Bridge in Huntington, Cabell County. The Court is of the opinion that respondent had, at the least, constructive notice of the potential deterioration of the concrete haunches on the I-64 bridge and that this condition posed a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$2,497.41

AMOUNT AWARDED: \$2,497.41

CC-08-0118 KELLY M. LEVY AND PETER D. LEVY V. DIVISION OF HIGHWAYS

On March 15, 2008, at approximately 11:00 p.m., claimant Kelly M. Levy was driving eastbound on 8th Avenue between 3rd and 4th Streets in Huntington, Cabell County, when claimants' vehicle struck two holes in the road. The holes were filled with water and Ms. Levy could not avoid them due to oncoming traffic. Respondent was responsible for the maintenance of 8th Avenue which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage to two tires and two rims. In addition, claimant needed to have the vehicle re-aligned. Since claimants' insurance deductible is \$500.00, their recovery is limited to that amount. Respondent agrees that the amount of \$500.00 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$500.00

AMOUNT AWARDED: \$500.00

CC-07-0334 BARBARA A. LORENZO AND LOU LORENZO V. DIVISION OF HIGHWAYS

The parties stipulated to the following: At approximately 2:00 p.m. on September 17, 2007, claimant Barbara A. Lorenzo was driving the claimants' 1999 Dodge Ram on Whittings Neck Road in Berkeley County when their vehicle struck a hole on the edge of the road. Ms. Lorenzo was unable to avoid striking the hole due to an oncoming vehicle. Respondent is responsible for the maintenance of Whittings Neck Road which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage in the amount of \$1,052.32. Claimants' insurance deductible was \$500.00. Thus, claimants' recovery is limited to that amount. Respondent agrees that the amount of \$500.00 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$977.38

AMOUNT AWARDED: \$500.00

CC-09-0106 CHRISTOPHER N. MANN AND MERESA MANN V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2006 Saturn Ion struck a hole as Meresa Mann was driving on W.Va. Route 20 in Speedway, Mercer County. Since the road was not maintained in adequate condition, the Court finds respondent negligent. Notwithstanding the negligence of respondent, the Court is also of the opinion that claimant was negligent in her operation of the vehicle. Claimant was aware of the road condition, and she could have further reduced her speed at this location. The Court finds that the negligence of the claimant equals 20% of the claimants' loss.

AMOUNT CLAIMED: \$326.95

AMOUNT AWARDED: \$261.56

CC-08-0017 DORIS C. MAYO V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On December 28, 2007, at approximately 7:00 a.m., claimant was traveling east on 8th Avenue toward Route 60 when her vehicle struck a hole on the right side of the road. Respondent was responsible for the maintenance of 8th Avenue which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage in the amount of \$86.50 (\$79.50 for the replacement of the rim and \$7.00 for mounting the rim). Respondent agrees that the amount of \$86.50 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$86.50

AMOUNT AWARDED: \$86.50

CC-08-0395 PLURA MCCLANAHAN V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 1999 Mercury Marquis struck chunks of concrete as claimant's father, Gene Black, was traveling on the 5th Street Bridge located over I-64 in Huntington, Cabell County. The Court is of the opinion that respondent had, at the least, constructive notice of the chunks of concrete which claimant's vehicle struck and that the chunks of concrete presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$257.77

AMOUNT AWARDED: \$257.77

CC-08-0450 SHERRY MCCOY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On September 22, 2008, claimant was traveling on Flatwoods Road near Ravenswood, in Jackson County, when her vehicle struck a hole in the road damaging the vehicle's tires. Respondent is responsible for the maintenance of Flatwoods Road which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage in the amount of \$1,056.00. Claimant's insurance deductible was \$500.00. Thus, claimant's recovery is limited to that amount. Respondent agrees that the amount of \$500.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$1,056.47

AMOUNT AWARDED: \$500.00

CC-03-0161 MICHELE MERIGO V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of W.Va. Route 27 in Brooke County, West Virginia. On or around April 2, 2001, Michele Merigo was operating her motor vehicle on W.Va. Route 27 in Brooke County, West Virginia, when her vehicle struck a rock that had fallen in the roadway from the adjacent hillside. Ms. Merigo was injured as a result of the accident and required medical treatment for her injuries. For the purposes of settlement, respondent acknowledges culpability for the preceding accident. Both the claimant and respondent believe that in this particular incident and under these particular circumstances that an award of \$122,500.00 would be a fair and reasonable amount to settle this claim.

AMOUNT CLAIMED: Unliquidated

AMOUNT AWARDED: \$122,500.00

CC-09-0019 LISA METZ AND BRIAN K. METZ V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2008 Subaru Impreza struck a hole while claimant Lisa Metz was traveling on State Route 100 in Maidsville, Monongalia County. The size of the hole leads the Court to conclude that respondent had notice of this hazardous condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$257.32

AMOUNT AWARDED: \$257.32

CC-08-0438 RONDA L. MILLER V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2003 Hyundai Elantra struck a piece of asphalt on W.Va. Route 2 in Wheeling, Ohio County. The Court is of the opinion that respondent had, at the least, constructive notice of the loose piece of asphalt which claimant's vehicle struck. The Court finds that the defect presented a hazard to the traveling public on this heavily traveled road. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$496.76

AMOUNT AWARDED: \$496.76

CC-08-0473 ROY H. MILLER V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On October 25, 2008, claimant was traveling on State Route 2 in Mason County when his vehicle struck a hole in the road damaging the vehicle's rims. Respondent is responsible for the maintenance of the road which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damages in the amount of \$398.56. Claimant's insurance deductible was \$200.00. Respondent agrees that the amount of \$200.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$398.56

AMOUNT AWARDED: \$200.00

CC-08-0451 RICHARD P. MORRONE V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2002 Chevrolet Cavalier struck a hole on Cedar Run Road in Kenova, Wayne County. The size of the hole leads the Court to conclude that respondent had notice of the road's condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$702.20

AMOUNT AWARDED: \$702.20

CC-07-0165 TERESA M. MYERS AND ANTHONY D. MYERS V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On March 23, 2007, claimants' 1999 Ford Escort was damaged when it struck an uneven surface on the Sugarlands Bridge near St. George in Tucker County causing damage to their vehicle. Respondent is responsible for the maintenance of the Sugarlands Bridge which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage in the amount of \$813.55. Claimants have subsequently sold the vehicle. Claimants agree that \$400.00 would be a fair and reasonable amount to settle this claim. Respondent agrees that the amount of \$400.00 for the damages put forth by the claimants is fair and reasonable.

AMOUNT CLAIMED: \$813.55

AMOUNT AWARDED: \$400.00

CC-09-0011 STANLEY G. NASH V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On December 17, 2008, claimant's 2005 Cadillac STS struck a hole as the claimant was driving northbound on the Mabscott Exit, from Route 19 in Mabscott, Raleigh County. Respondent is responsible for the maintenance of the Mabscott Exit, which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage in the amount of \$1,035.68. Since claimant's insurance deductible was \$1,000.00, claimant's recovery is limited to that amount. Respondent agrees that the amount of \$1,000.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$1,035.68

AMOUNT AWARDED: \$1,000.00

CC-08-0029 RICHARD L. NEWMAN AND MARQUETA SUE NEWMAN V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2000 Ford Mercury Grand Marquis struck a hole while claimant Richard L. Newman was traveling east on I-64 near Milton, Cabell County. The Court is of the opinion that respondent had constructive notice of the hole which claimants' vehicle struck and that the hole presented a hazard to the traveling public. Since the incident occurred on the travel portion of the road on I-64 where vehicles travel at high speeds, the Court finds respondent negligent.

AMOUNT CLAIMED: \$281.50

AMOUNT AWARDED: \$281.50

CC-08-0063 ERNESTINE NIGH V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2008 Ford Taurus struck a hole while she was driving on Rural Route 19 in Fairmont, Marion County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public. Since the road was in disrepair at the time of this incident, the Court finds respondent negligent.

AMOUNT CLAIMED: \$420.36

AMOUNT AWARDED: \$200.00

CC-05-0420 MICHELLE D. ONEY V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2002 Ford Taurus struck a construction barrel on I-64 between the Hal Greer and 29th Street Exits in Huntington, Cabell County. The Court is of the opinion that respondent had, at the least, constructive notice of the construction barrel which claimant's vehicle struck on I-64 East. The Court finds that the plastic barrel in question was not adequately secured to prevent a hazard to the traveling public. Since the barrel was the proximate cause of the damages sustained to claimant's vehicle, the Court concludes that respondent was negligent.

AMOUNT CLAIMED: \$1,289.76

AMOUNT AWARDED: \$500.00

CC-09-0135 GARY ORNDORFF AND KATHRYN ORNDORFF V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2005 Pontiac Grand Prix struck a piece of asphalt that had come out of a hole on Tub Run Hollow Road in Berkeley County. Since the road was in disrepair at the time of this incident, the Court finds respondent negligent. The Court is also of the opinion that Mr. Orndorff was negligent in his operation of the vehicle, and the negligence of claimant equals thirty-percent (30%) of claimants' loss.

AMOUNT CLAIMED: \$1,631.70

AMOUNT AWARDED: \$350.00

CC-08-0240 JASON ROBERT PICKENS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2005 Ford Focus struck a hole on Koon's Run Road near Fairmont, Marion County. Since there were a series of holes at this location, the Court finds that the road was not properly maintained at the time of this incident. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$341.75

AMOUNT AWARDED: \$341.75

CC-08-0273 EUGENE PLEASANT JR. V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2000 Chevrolet Blazer struck a hole as he was driving on Main Avenue in Nitro, Kanawha County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public. Even though the claimant was unable to change lanes to avoid the hole, he was familiar with the road's condition and should have reduced his speed or stopped in order to prevent his vehicle from striking the hole. Thus, the Court finds that the claimant's negligence equals ten-percent (10%) of his loss.

AMOUNT CLAIMED: \$311.92

AMOUNT AWARDED: \$280.73

CC-08-0430 SHERRY L. POST V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 1993 940 Volvo struck a drainage trench on Wildcat Road in Lewis County. The Court is of the opinion that respondent had, at the least, constructive notice of the drainage trench which claimant's vehicle struck and that it presented a hazard to the traveling public. The Court is also of the opinion that the claimant was negligent, and claimant's negligence equals forty percent (40%) of her loss.

AMOUNT CLAIMED: \$884.04

AMOUNT AWARDED: \$530.43

CC-06-0045 STANLEY E. POWERS AND FRANCIS POWERS V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of W.Va. Route 80 in Mingo County. On or around February 3, 2004, Stanley E. Powers was operating his motor vehicle on W.Va. Route 80 near Gilbert in Mingo County. Mr. Powers was injured as a result of the accident and required medical treatment for his injuries. Claimants allege that respondent was negligent in its maintenance of the portion of W.Va. Route 80 where Mr. Powers' accident occurred. For the purposes of settlement, respondent acknowledges culpability for the accident.

AMOUNT CLAIMED: \$150,000.00

AMOUNT AWARDED: \$50,000.00

CC-08-0176 RONALD LEE PRICE V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2004 Chrysler Sebring struck a hole as he was driving east on 8th Avenue in Huntington, Cabell County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$411.73

AMOUNT AWARDED: \$411.73

CC-08-0044 TAMARA PRITT V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when she was driving on Walker's Branch Road in Wayne County and her 2005 Volvo struck an area on the edge of the road which was eroded. The Court is of the opinion that respondent had, at the least, constructive notice of the eroded area and that it presented a hazard to the traveling public. Since vehicles are frequently forced to drive on the edge of the road due to oncoming traffic at this narrow location on Walker's Branch Road, the Court finds that this area should have been maintained more frequently than every three years. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$22.74

AMOUNT AWARDED: \$22.74

CC-08-0408 CRYSTAL PRUETT V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2006 Kia Rio struck a metal reflector on W.Va. Route 60 in Huntington, Cabell County. The Court is of the opinion that respondent had, at the least, constructive notice of the condition of the reflector which claimant's vehicle struck and that the reflector, which had sharp edges protruding from its base, presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$183.23

AMOUNT AWARDED: \$56.75

CC-08-0124 DAVID A. RATLIFF V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2003 Hyundai Elantra struck a hole as he was driving on US Route 52 in Prichard, Wayne County. The size of the hole and its location leads the Court to conclude that respondent had constructive notice of the road's condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$558.83

AMOUNT AWARDED: \$378.83

CC-08-0236 NOAH EDWARD RAWLINGS AND SHERRY L. RAWLINGS V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2007 Chevrolet Colorado truck struck a hole as claimant, Noah Rawlings, was driving on State Route 58 in Anmoore, Harrison County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimants' vehicle struck and that the hole presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$300.23

AMOUNT AWARDED: \$300.23

CC-07-0079 RLI INSURANCE COMPANY V. DIVISION OF HIGHWAYS

RLI Insurance Company (“RLI”) brought this claim to recover monies that it asserts were wrongfully transmitted by the respondent to a construction company known as Roberts Construction, as well as to a sister State agency, the West Virginia Bureau of Employment Programs (“WVBEP”) for the Workers’ Compensation Fund. RLI had assumed responsibility for the completion of the Mullens Bridge construction project in Wyoming County as the bonding company acting as surety on Roberts’ behalf when the subject transfers of funds occurred.

Roberts and certain named Indemnitors entered into a Joint Control Trust Account Agreement with RLI dated December 5, 2003, and Roberts entered into a Trust Account Agreement dated March 5, 2004, directing Highways to deposit all subsequent Bridge Project contract payments into a Trust Account established by BB&T and RLI for the Bridge Project. While the payee name and address in the State of West Virginia’s Financial Information System remained that of Roberts, the bank routing information for the receiving bank was changed to direct electronic payments to the Trust Account established by RLI and Roberts. Payments totaling \$377,510.24 were deposited in the Trust Account by the State of West Virginia on behalf of Highways. Those payments were used by RLI to complete the Bridge Project.

On multiple occasions between March 22, 2005, through July 2006, RLI notified Highways that in the event the extra work was approved for payment, any payment for the extra work was property of RLI and should be deposited in the Trust Account. At no time during those communications was RLI notified that Highways was going to release payment directly to Roberts or on Roberts’ behalf to the WVBEP.

In April 2006, Highways submitted documents to the State Auditor’s Office for payment of Progress Voucher 34 in the sum of \$167,634.95 in the same manner that it had submitted past progress payments that were electronically deposited in the Trust Account. Because WVBEP had filed a lien with the State Auditor’s Office in the amount of \$72,072.33, the State Auditor did not make one electronic deposit to the Trust Account in the full amount, but rather caused the State Treasurer to issue two paper drafts, one payable to WVBEP in the amount of the lien, and the other directly to Roberts Construction.

The Court finds that, as the primary payor for funds on the performance of the construction contract, RLI stands as the only entity that is entitled to payment on the contract based upon the principle of equitable subrogation. When Highways found Roberts to be in default, it called on Roberts’ surety, RLI, to complete the project and pay the expenses for labor and materials. At and after that point, in legal effect, the contractor was RLI. As such, the monies that are the subject of this claim became the sole property of RLI which directed that they be deposited in the Trust Account. Highways must assume the risk and the loss for failing to ensure that RLI’s direction was understood and followed by the State Auditor. Further, RLI’s right of equitable subrogation is superior to the interest of any other subsequent lien or claim against the original contractor, Roberts.

AMOUNT CLAIMED: \$170,027.85

AMOUNT AWARDED: \$167,634.95

CC-08-0452 GAIL S. ROBBINS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2006 Toyota 4Runner struck gravel and sustained damage to its windshield while she was traveling on a portion of I-81 that was being resurfaced in Martinsburg, Berkeley County. The Court is of the opinion that respondent had, at the least, constructive notice of the excess gravel on I-81. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$50.00

AMOUNT AWARDED: \$50.00

CC-09-0010 ROBERT L. ROGERS AND MELISSA J. ROGERS V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2001 Audi struck a hole on County Route 36 as claimant, Robert L. Rogers, was driving in Statts Mills, Jackson County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimants' vehicle struck and that the hole presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$993.05

AMOUNT AWARDED: \$500.00

CC-08-0233 PEGGY A. SANDERS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 1991 Jeep Cherokee struck a hole on US Route 52 in Mercer County. Since the road was not maintained at the time of this incident, the Court finds respondent negligent.

AMOUNT CLAIMED: \$54.13

AMOUNT AWARDED: \$54.13

CC-05-0329 DIRK ROBERT HUGO SCHLINGMANN AND CATHERINE ELLEN SCHLINGMANN V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of West Virginia Route 67, Brooke County, West Virginia. On or around January 4, 2004, claimants' property, including their house, hillside, and property value, suffered damage as a result of a landslide adjacent to their property along West Virginia Route 67. The claimants allege that the landslide was caused from WVDOH's installation of a culvert and gabion wall along West Virginia Route 67. For the purposes of settlement, respondent acknowledges culpability for the preceding incident.

AMOUNT CLAIMED: \$171,842.00

AMOUNT AWARDED: \$68,250.00

CC-08-0431 RANDY L. SEARLS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2007 Ford 500 struck a series of holes as he was driving north on W.Va. Route 2 in Apple Grove, Mason County. The Court is of the opinion that respondent had, at the least, constructive notice of the holes which claimant's vehicle struck and that the holes presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$539.78

AMOUNT AWARDED: \$500.00

CC-09-0174 JANA LYNNE SHANNON V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On January 3, 2009, claimant was traveling north on State Route 2 near New Martinsville, Wetzel County, when her vehicle was struck by a falling piece of debris from the overpass bridge damaging the vehicle's windshield. Respondent is responsible for the maintenance of State Route 2 which it failed to maintain properly on the date of this incident. Respondent agrees that the amount of \$5,436.13 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$5,436.13

AMOUNT AWARDED: \$5,436.13

CC-08-0423 ALICIA G. SHAVER AND ROBERT H. SHAVER JR. V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2005 Hyundai Elantra struck two holes while Alicia G. Shaver was driving on State Route 100 in Granville, Monongalia County. The Court is of the opinion that respondent had, at the least, constructive notice of the holes which claimants' vehicle struck and that the holes presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$468.75

AMOUNT AWARDED: \$468.75

CC-06-0036 KENDALL C. SHEPARD V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2003 Oldsmobile Alero struck a hole on US Route 52 in Roderfield, McDowell County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimant's vehicle struck and that the hole presented a hazard to the traveling public. The Court also finds that the claimant was 20% negligent.

AMOUNT CLAIMED: \$384.47

AMOUNT AWARDED: \$307.58

CC-08-0024 SHERILL A. SIMMONS AND DICK F. SIMMONS V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2001 Astro van struck a hole as Sherill Simmons was driving on Georgetown Road, near Elkins, Randolph County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimants' vehicle struck and that the hole presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$2,139.18

AMOUNT AWARDED: \$500.00

CC-08-0442 GREG SIX AND RAY SIX V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On May 26, 2008, claimants were traveling on State Route 2 near New Cumberland, Hancock County, when the vehicle (a camper) struck a road sign which extended over the edge of the road damaging the top railing. Respondent is responsible for the maintenance of State Route 2 which it failed to maintain properly on the date of this incident. As a result, claimants' vehicle sustained damage in the amount of \$517.15. Claimants' insurance deductible was \$100.00. Thus, claimants' recovery is limited to that amount. Respondent agrees that the amount of \$100.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$517.15

AMOUNT AWARDED: \$100.00

CC-09-0138 FRANKLIN T. SMITH V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On February 15, 2009, claimant was driving his 1999 Mercury Grand Marquis across a bridge on State Route 7 when his vehicle struck a hole in the bridge pavement. Respondent is responsible for the maintenance of State Route 7 which it failed to maintain properly on the date of this incident. As a result of respondent's failure, claimant's vehicle sustained damage in the amount of \$289.08. Since claimant's insurance deductible was \$100.00, his recovery is limited to that amount. Respondent agrees that the amount of \$100.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$289.08

AMOUNT AWARDED: \$100.00

CC-08-0410 JUDY K. SNIDER V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2006 Pontiac G6 GT struck a hole on the berm as she was driving west on W.Va. Route 5 between Sand Fork and Burnsville in Gilmer County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$564.10

AMOUNT AWARDED: \$250.00

CC-08-0078 KIM SOVINE V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On February 7, 2008, claimant was driving her 2007 Honda Accord on I-64 East past the Teays Valley Exit when her vehicle struck a hole in the road. Respondent is responsible for the maintenance of I-64 East which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its front, passenger side tire and rim in the amount of \$519.29. Claimant's insurance deductible at the time of the incident was \$1,000.00. Respondent agrees that the amount of \$519.29 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$519.29

AMOUNT AWARDED: \$519.29

CC-08-0424 LOYD DALE SPOTLOE V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On August 28, 2008, claimant's 1989 Ford F150 pickup truck struck a hole on Hickory Flat Road in Buckhannon, Upshur County, and caused damage to the rear spring of his vehicle. Respondent is responsible for the maintenance of Hickory Flat Road which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage in the amount of \$543.68. Respondent agrees that the amount of \$543.68 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$543.68

AMOUNT AWARDED: \$543.68

CC-09-0075 MARY STEWART V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On January 11, 2009, claimant's husband was driving on Bunner's Ridge Road near Fairmont, Marion County, when claimant's vehicle struck a hole in the road, causing damage to the vehicle. Respondent is responsible for the maintenance of Bunner's Ridge Road which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its tire and wheel in the amount of \$564.00. Since claimant's insurance deductible was \$500.00, claimant's recovery is limited to that amount. Respondent agrees that the amount of \$500.00 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$564.00

AMOUNT AWARDED: \$500.00

CC-07-0369 ROBERT L. SUMMERS V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of U.S. Route 61 in Charleston, West Virginia. On or around April 15, 2006, claimant alleges that he fell as a result of a clogged drain which was covered with debris and obscured by water at the corner of U.S. Route 61 and 51st Street. Further, he alleges that as a result of the fall, he suffered a left ankle sprain, contusion on his right knee, a wrist sprain, and a torn rotator cuff in his right shoulder which required surgery. For the purposes of settlement, respondent acknowledges culpability for the preceding incident. Claimant and respondent believe that in this particular incident and under these particular circumstances that an award of \$45,000.00 would be a fair and reasonable amount to settle this claim.

AMOUNT CLAIMED: Unliquidated

AMOUNT AWARDED: \$45,000.00

CC-08-0454 RUSSELL G. SWECKER AND WANDA L. SWECKER V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2004 Chevrolet Cavalier struck an uneven surface on the berm of Corridor H, designated as US Route 33, near Elkins, Randolph County. The Court is of the opinion that respondent had, at the least, constructive notice of the condition of the berm at this location. The Court is also of the opinion that the driver was 10% negligent.

AMOUNT CLAIMED: \$490.59

AMOUNT AWARDED: \$441.54

CC-09-0111 ALLEN TENNANT V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On January 30, 2009, at approximately 8:30 a.m., claimant was driving his 2006 Chevrolet Colorado truck east on State Route 7 on the Clovis Bridge in Pentress, Monongalia County, when his truck struck a metal plate, damaging his vehicle's tire. According to the claimant, the plate had been plowed off the side of the bridge by respondent's snow plow. Respondent is responsible for the maintenance of State Route 7 which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its right, rear tire in the amount of \$90.58. Respondent agrees that the amount of \$90.58 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$90.58

AMOUNT AWARDED: \$90.58

CC-08-0335 K. BROOKE VANCE V. DIVISION OF HIGHWAYS

The parties stipulated to the following: On June 19, 2008, at approximately 5:15 p.m., claimant was driving toward Winfield on W.Va. Route 35 when her 2008 Toyota Scion struck a hole in the road. Claimant was unable to avoid the hole due to oncoming traffic. Respondent was responsible for the maintenance of W.Va. Route 35 which it failed to maintain properly on the date of this incident. As a result, claimant's vehicle sustained damage to its right, front rim in the amount of \$135.43. Respondent agrees that the amount of \$135.43 for the damages put forth by the claimant is fair and reasonable.

AMOUNT CLAIMED: \$135.43

AMOUNT AWARDED: \$135.43

CC-08-0123 JUDY A. WALTER V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 1993 Ford Tempo struck a hole on U.S. Route 250 in Fairmont, Marion County. The Court is of the opinion that respondent had, at the least, constructive notice of the holes on U.S. Route 250. Since respondent was aware of the condition of this first priority road, the Court finds respondent negligent.

AMOUNT CLAIMED: \$67.05

AMOUNT AWARDED: \$67.05

CC-09-0065 ANN S. WALTERS V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when her 2006 Subaru Legacy struck two holes while her husband, Richard Walters, was driving on Stewartstown Road in Morgantown, Monongalia County. Since the road was in inadequate repair at the time of the incident, the Court finds respondent negligent.

AMOUNT CLAIMED: \$192.87

AMOUNT AWARDED: \$192.87

CC-09-0351 CAROL WHITE AND NANCY WHITE V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2006 Chevrolet HHR struck a hole as claimant Carol White was driving on Stewartstown Road, designated as County Route 67, in Morgantown, Monongalia County. The Court is of the opinion that respondent had, at the least, constructive notice of the hole which claimants' vehicle struck and that the hole presented a hazard to the traveling public. The Court also finds that the driver was 20% negligent in her operation of the vehicle.

AMOUNT CLAIMANT: \$432.68

AMOUNT AWARDED: \$346.15

CC-07-0368 RUTH M. WHITTAKER AND VERNON B. WHITTAKER V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of U.S. Route 460 in Mercer County, West Virginia. On October 4, 2007, Ruth Whittaker was operating an automobile on U.S. Route 460. Ms. Whittaker's automobile struck a metal expansion joint, which had come loose on a bridge located along U.S. Route 460. Claimant and respondent believe that in this particular incident and under these particular circumstances that an award of \$4,000.00 would be a fair and reasonable amount to settle this claim.

AMOUNT CLAIMED: \$4,000.00

AMOUNT AWARDED: \$4,000.00

CC-08-0494 DAVID WILFONG V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when he was riding his 1999 California Motorcycle Company Wide Rider, and his motorcycle struck an uneven section of the roadway on State Route 7 near Kingwood, Preston County. Since respondent's warning sign was down at the time of the incident, the Court finds that motorists were not warned of the hazard in this high traffic area. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$897.75

AMOUNT AWARDED: \$897.75

CC-06-0238 DONNA KISER, AS ADMINISTRATRIX OF THE ESTATES OF MELVIN KISER AND MICHAEL KISER, DECEASED AND ROBERT WOODS, INDIVIDUALLY V. DIVISION OF HIGHWAYS

The parties stipulated to the following: Respondent is responsible for the maintenance of Interstate 64, Cabell County, West Virginia. On or about October 23, 2005, claimant Donna Kiser's decedents, Melvin Kiser and Michael Kiser, and claimant Robert Woods were involved in an accident on Interstate 64 near the 15 mile marker in Cabell County, West Virginia. The claimant's automobile was struck in the rear end by a tractor trailer. The incident occurred approximately 2 miles from a bridge repair construction project that Ahern & Associates, Inc. was performing for the respondent. Melvin and Michael Kiser suffered critical injuries and died as a result of the accident. Robert Woods suffered injuries to his cervical spine and right hip as a result of the accident. The claimants allege that the traffic control plan was inadequate due to traffic routinely backing up beyond the farthest warning sign of the construction project. Moreover, respondent failed to install a sufficient number of warning signs to notify the traveling public of the backup. For the purposes of settlement, respondent acknowledges culpability for the preceding incident.

AMOUNT CLAIMED: Unliquidated

AMOUNT AWARDED: \$90,000.00 to Robert Woods

CC-08-0243 ROBERT C. WRIGHT AND KIMBERLY S. WRIGHT V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2007 Chevrolet Cobalt struck a rock that was embedded in Narrow Gauge Road, designated as County Route 3/19, in Wood County. The Court is of the opinion that respondent had, at the least, constructive notice of the rock that was embedded in the road which claimants' vehicle struck and that the rock presented a hazard to the traveling public. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$529.76

AMOUNT AWARDED: \$500.00

CC-08-0164 ROBIN L. WRIGHT AND ROBERT L. WRIGHT V. DIVISION OF HIGHWAYS

Claimants brought this action for vehicle damage which occurred when their 2005 Chevrolet Aveo struck a hole while the claimants' daughter, Brooke Wright, was traveling on State Route 17, commonly referred to as Baxter Fairview Road, in Marion County. The size of the hole and its location on the road leads the Court to conclude that respondent had notice of this hazardous condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$231.50

AMOUNT AWARDED: \$231.50

CC-08-0376 WESLEY R. YOHO SR. V. DIVISION OF HIGHWAYS

Claimant brought this action for vehicle damage which occurred when his 2007 Ford Focus struck a hole on Robert's Ridge, designated as County Route 21, in Moundsville, Marshall County. The size of the hole and its location lead the Court to conclude that respondent had notice of this condition. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$810.74

AMOUNT AWARDED: \$500.00

CLAIMS AGAINST DIVISION OF MOTOR VEHICLES

CC-08-0396 JOHN H. HALSTEAD V. DIVISION OF MOTOR VEHICLES

Claimant seeks to recover \$292.50 for a privilege tax that respondent mistakenly charged the claimant on his 2002 Mercury Sable when the claimant registered the vehicle in this State. The Court finds that under the principle of unjust enrichment, the claimant is entitled to recover the amount of the tax that he was improperly charged.

AMOUNT CLAIMED: \$292.50

AMOUNT AWARDED: \$292.50

CC-08-0400 JOAN LORRAINE JARVIS-HALSTEAD V. DIVISION OF MOTOR VEHICLES

Claimant seeks to recover \$989.00 for a privilege tax that respondent mistakenly charged the claimant on her 2005 Toyota Avalon when the claimant registered her vehicle in this State. The Court finds that under the principle of unjust enrichment, the claimant is entitled to recover the amount of the tax that she was improperly charged.

AMOUNT CLAIMED: \$989.00

AMOUNT AWARDED: \$989.00

CLAIM AGAINST LIBRARY COMMISSION

CC-09-0141 JO ANNE COOKE V. LIBRARY COMMISSION

Claimant seeks to recover to recover \$895.63 from respondent for an error in the calculation of her increment (\$22.87) and annual leave pay (\$872.76). In its Answer, respondent admits the validity of the claim as well as the amount, and states that there were sufficient funds expired in that appropriate fiscal year from which the invoice could have been paid.

AMOUNT CLAIMED: \$895.63

AMOUNT AWARDED: \$895.63

CLAIM AGAINST PUBLIC SERVICE COMMISSION

CC-09-0428 LYNADA WOODS V. PUBLIC SERVICE COMMISSION

Claimant seeks to recover \$677.25 for computer courses that she took at West Virginia State University. In its Answer, respondent admits the validity of the claim as well as the amount, and states that there were sufficient funds expired in that appropriate fiscal year from which the invoice could have been paid.

AMOUNT CLAIMED: \$677.25

AMOUNT AWARDED: \$677.25

CLAIMS AGAINST REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

CC-08-0443 SAMMY RAY COPLEY V. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

Claimant, an inmate at the Southwestern Regional Jail in Holden, Logan County, seeks \$39.16 for items of personal property that were entrusted to respondent. In its Answer, respondent admits the validity of the claim and that the amount is fair and reasonable.

AMOUNT CLAIMED: \$39.16

AMOUNT AWARDED: \$39.16

CC-08-0406 WALLACE DAVIS V. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

Claimant, a former inmate at the Eastern Regional Jail, seeks to recover \$62.00 for an identification wallet that he alleges was misplaced by respondent. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$62.00

AMOUNT AWARDED: \$62.00

CC-08-0018 ROXANNE LEE FUNK V. REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

The claimant, a former inmate at the Eastern Regional Jail, seeks to recover the value of five rings and two pairs of earrings that she alleges were misplaced by respondent. The claimant asserts that the value of the missing jewelry totals \$4,183.95. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate. The measure of damages in such cases is the fair market value of the items that were in the respondent's custody and not returned to the claimant upon his or her release. The Court finds that \$2,091.97 is a fair and reasonable amount to compensate the claimant for her lost jewelry.

AMOUNT CLAIMED: \$4,183.95

AMOUNT AWARDED: \$2,091.97

CC-09-0093 ROBERT GLADHILL V. REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

Claimant, a former inmate at the Eastern Regional Jail, seeks to recover \$129.99 for his personal property that was not returned to him when he was discharged from the facility. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$129.99

AMOUNT AWARDED: \$129.99

CC-08-0418 LARRY EDWARD HARMON V. REGIONAL JAIL AND CORRECTIONAL
FACILITY AUTHORITY

Claimant, a former inmate at the Southern Regional Jail, seeks \$426.96 for items of personal property that were entrusted to respondent. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$426.96

AMOUNT AWARDED: \$426.96

CC-07-0264 ROBIN DIAHANN JENKINS V. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

Claimant, a former inmate at the North Central Regional Jail, brought this claim to recover the value of her eyeglasses that were destroyed by another inmate. The Court finds that the respondent is liable for failing to take measures to protect the claimant and her property. Thus, the Court finds respondent negligent.

AMOUNT CLAIMED: \$240.00

AMOUNT AWARDED: \$240.00

CC-09-0195 JOSEPH J. JOHNSON V. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

Claimant, a former inmate at the South Central Regional Jail, seeks to recover \$871.50 for an item of personal property that was misplaced by respondent. Claimant alleges that respondent lost the insert for his prosthetic leg, and he was unable to wear his prosthetic leg without the insert. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$871.50

AMOUNT AWARDED: \$871.50

CC-07-0270 CHRISTINA L. KING V. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

Claimant seeks to recover the value of personal property that was lost when she was transported between facilities operated by respondent. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$30.00

AMOUNT AWARDED: \$30.00

CC-09-0070 FRANK MCKEIVER V. REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

Claimant, a former inmate at the Tygart Valley Regional Jail, seeks to recover an item of personal property that was missing when he was released from the facility. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$210.94

AMOUNT AWARDED: \$210.94

CC-08-0444 ROOSEVELT MOTLEY II V. REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

Claimant, a former inmate at the South Central Regional Jail in Kanawha County, seeks \$1,696.00 for items of personal property that were entrusted to respondent. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$1,696.00

AMOUNT AWARDED: \$1,696.00

CC-08-0272 TERRY J. SHAVER V. REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

Claimant, an inmate at a facility of respondent, seeks to recover the value of his personal property that was entrusted to respondent. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$372.45

AMOUNT AWARDED: \$372.45

CC-09-0248 ROBERT L. STEWART V. REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

Claimant, an inmate at the Western Regional Jail in Barboursville, Cabell County, seeks to recover items of personal property that were misplaced. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$18.77

AMOUNT AWARDED: \$18.77

CC-08-0505 JIMMY R. TAYLOR V. REGIONAL JAIL AND CORRECTIONAL FACILITY
AUTHORITY

Claimant, a former inmate at the Southern Regional Jail, seeks to recover the value of certain personal property items that he alleges were lost by respondent. This Court has taken the position in prior claims that if a bailment situation has been created, respondent is responsible for property of an inmate which is taken from that inmate, remains in its custody, and is not produced for return to the inmate.

AMOUNT CLAIMED: \$325.00

AMOUNT AWARDED: \$140.00

CLAIM AGAINST STATE POLICE

CC-05-0304 KENNY S. WILLETT V. WEST VIRGINIA STATE POLICE

Claimant brought this action for vehicle damage which occurred on State Route 20 when a vehicle being operated by a member of the WV State Police kicked up gravel causing damage to the claimant's vehicle. The Court finds that respondent is liable for the damage sustained to claimant's vehicle.

AMOUNT CLAIMED: \$277.44

AMOUNT AWARDED: \$277.44