

Arkansas
State Claims Commission

NOV 05 2020

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas☒ Mr.
☐ Mrs.
☐ Ms.
☐ MissRichard Gentke, Claimant

vs.

State of Arkansas, Respondent

RECEIVED

Do Not Write in These Spaces

Claim No. _____
Date Filed _____
(Month) (Day) (Year)
Amount of Claim \$ _____
Fund _____

COMPLAINT

Richard Gentke, the above named Claimant, of _____

(Street or R.F.D. & No.)

(City)

County of _____

represented by _____

(Legal Counsel, if any, for Claim)

of _____, says:
(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)

State agency involved: _____

Amount sought: _____

Month, day, year and place of incident or service: _____

Explanation: I was Traveling West on Hwy 69 and turned North on Hwy 163 and my Boat Trailer wheel and axle hit the Culbert and Turned over in Highway, tearing up the trailer and motor. Boat and Motor and trailer upside down in highway stopping traffic. Bent the axle and broke the trailer in two pieces and broke the motor. You have to go on wrong side of road to miss Culbert. Demolished the trailer and Motor. Culbert is sticking out in Road

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

Yes; when? _____; to whom? _____
(Yes or No) (Month) (Day) (Year) (Department)
and that the following action was taken thereon: _____and that \$ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? NO; if so, state name and address(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
and that the nature thereof is as follows: _____

and was acquired on _____, in the following manner: _____

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

(Print Claimant/Representative Name)

(Signature of Claimant/Representative)

BELINDA GARRISON
NOTARY PUBLIC - ARKANSAS
CRAIGHEAD COUNTY
MY COMMISSION EXPIRES: 06-06-2021
(SEAL) COMMISSION NO. 12381951

SWORN TO and subscribed before me at _____

JonesboroArkansas

(City)

(State)

on this _____

2

day of _____

November2020

(Date)

(Month)

(Year)

Belinda Garrison

(Notary Public)

SF1- R7/99

My Commission Expires: 06-06-21

(Month)

(Day)

(Year)

ARKANSAS STATE CLAIMS COMMISSION
MOTOR VEHICLE ACCIDENT REPORT FORM

Arkansas
State Claims Commission

SECTION I
CLAIMANT

Richard Gentle

ADDRESS

CITY & STATE

ZIP CODE

DATE OF ACCIDENT: 7-26-20

RECEIVED

TIME: 3:00 PM

MOTOR VEHICLE DAMAGED:

TYPE Boat Motor

MAKE 14HP

YEAR 2020

DRIVEN BY:

Richard Gentle

ADDRESS

Give a brief description of accident, showing how accident happened, exact loss and extent of damage to car.

Boat turned over in Highway due to protruding
culvert in the Highway, Ruined Trailer and
Motor. totaled demolished

SECTION II

Has this vehicle been repaired? Yes () No (X) If repairs have been made, give the following information: Amount \$. Have you paid for the repairs? Yes (X) No () NOTE: Attach a copy of repair bill.

If repairs have not been made, list three estimates below and attach copies of each of them.

NAME	ADDRESS	AMOUNT
1. _____	_____	\$ _____
2. _____	_____	_____
3. _____	_____	_____

SECTION III

Was vehicle covered by Insurance? Yes () No (X) Liability Only ()

Comprehensive: Yes () No () What is your deductible? \$ 0

Collision: Yes () No () What is your deductible? \$ 0

NAME OF INSURANCE CARRIER

ADDRESS

SECTION IV

Type of State Vehicle involved 0 License No. _____

Driver _____ Property of which State Agency _____

If accident was investigated by the State Police, give name of investigating officer: _____

If investigation was made by some other agency,

give name and title of officer making the investigation: _____

SECTION V

The undersigned states on oath that he/she is familiar with the matters and things set forth in the above statement, and that he/she verily believes that they are true.

BELINDA GARRISON
NOTARY PUBLIC - ARKANSAS
CRAIGHEAD COUNTY
MY COMMISSION EXPIRES: 06-06-2021
(Notary Seal) 12381951

Signature of Claimant

Sworn to and subscribed before me at Jonesboro Arkansas
City, State

on this 2 day of November, 2020
day month year

Belinda Garrison
Notary Public

My Commission Expires 06-06-21

ARKANSAS STATE CLAIMS COMMISSION
PROPERTY DAMAGE/PERSONAL INJURY INCIDENT REPORT FORMSECTION I
CLAIMANT

Richard Gentle

ADDRESS

CITY & STATE

ZIP CODE

DATE OF INCIDENT: 7-26-20 2020 TIME 3:00 PM

Give a brief description of incident, showing how incident happened, exact loss and extent of damage to property and/or injury to person:

I bought a new motor 25hp, Mercury and got my boat set up AND on Return From Fishing hit a culvert on Hwy 69 + 163. Turned boat over in the highway. (If personal injury claim only, move on to Section IV) Motor & Trailer Damaged Totald

SECTION II

Has this property been repaired? Yes () No (X) If repairs have been made, give the following information: Amount: \$ 5290.00 Have you paid for the repairs? Yes (X) No ()

NOTE: Attach a copy of repair bill.

If repairs have not been made, list three estimates below and attach copies of each of them.

NAME	ADDRESS	AMOUNT
1.		\$
2.		\$
3.		\$

SECTION III

Was property covered by insurance? Yes () No (X)
If yes, what is the deductible? \$ 0

NAME OF INSURANCE CARRIER

ADDRESS

A1State

Searcy, AR.

SECTION IV

Is injured covered by medical insurance? Yes () No (X) If yes, is medical insurance:

If yes, what is the deductible? \$ 0

- A. Job-based Yes () No ()
B. Uninsured Motorist Yes () No ()
C. Private Pay Yes () No ()

NAME OF INSURANCE CARRIER

ADDRESS

SECTION V

If incident was investigated by the police or by some other agency, give name and title of officer/person making the investigation:

SECTION VI

The undersigned states on oath that he/she is familiar with the matters and things set forth in the above statement, and that he/she verily believes that they are true.

BELINDA GARRISON
NOTARY PUBLIC - ARKANSAS
CRAIGHEAD COUNTY
COMMISSION EXPIRES: 06-06-2021
COMMISSION NO. 12381951
(Notary Seal)

Signature of Claimant

Sworn to and subscribed before me at Jonesboro Arkansas

City & State

on this 2 day of November, 19 2020
day month year

My Commission Expires 06-06-21

Signature of Notary Public

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICHARD GENTLE

CLAIMANT

V.

CLAIM NO. 210604

**ARKANSAS DEPARTMENT OF
TRANSPORTATION**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the motion filed by the Arkansas Department of Transportation (the “Respondent”) to dismiss the claim of Richard Gentle (the “Claimant”). Based upon a review of Respondent’s motion and the law of Arkansas, the Claims Commission hereby finds as follows:

1. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204(a).
2. Claimant filed the instant claim seeking damages for the repair of Claimant’s boat trailer and motor, which were damaged when his “boat trailer wheel and axle hit the culbert [sic].”
3. Respondent filed a motion to dismiss, stating that the damage to Claimant’s boat trailer and motor were vehicle was not caused by the negligence of Respondent or its employees. Respondent also affirmatively pled that Claimant’s damages were caused by his failure to remain within the white lines. In support, Respondent attached a picture of the intersection.
4. Claimant did not respond to the motion to dismiss.
5. Pursuant to Ark. R. Civ. Proc. 12(b), the Claims Commission will consider the picture submitted by Respondent, such that Respondent’s motion shall be considered as a motion for summary judgment.
6. Pursuant to Rule 56(c)(2), summary judgment is appropriate when there are no genuine issues as to any material fact, and the moving party is entitled to judgment as a matter of

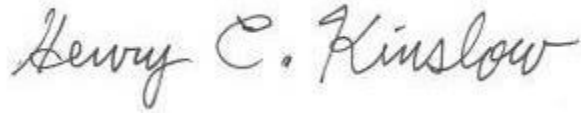
law. See *Hisaw v. State Farm Mutual Auto Insurance Co.*, 353 Ark. 668, 122 S.W.3d 1 (2003). Summary judgment motions are subject to a shifting burden, in that once the moving party has made a *prima facie* showing of entitlement to summary judgment, “the burden then shifts to the nonmoving party to show that material questions of fact remain.” *Flentje v. First National Bank of Wynne*, 340 Ark. 563, 569, 11 S.W.3d 531, 536 (2000). Summary judgment is useful “when there is no real issue of fact to be decided.” *Hughes Western World, Inc. v. Westmoore Manufacturing Co.*, 269 Ark. 300, 301, 601 S.W.2d 826, 826 (1980).

7. The Claims Commission finds that Respondent did make a *prima facie* showing in its motion that it was entitled to judgment as a matter of law based upon its picture of the intersection.

8. By not responding, Claimant failed to demonstrate that there were any genuine issues of material fact precluding summary judgment.

9. As such, Respondent’s motion is GRANTED, and Claimant’s claim is DENIED and DISMISSED.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: April 26, 2021

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

RICHARD GENTLE

CLAIMANT

v.

No. 210604

ARKANSAS DEPARTMENT OF TRANSPORTATION

RESPONDENT

RESPONSE TO MOTION TO DISMISS

Comes now the Claimant, Richard Gentle, by and through his attorney, Jeanette Whatley, and for his Response to Motion to Dismiss, would show unto the Commission as follows:

1. That the Claimant filed a Complaint alleging that he suffered damages to his boat, motor and trailer as a result of the negligence of the Respondent by failing to maintain the public roadways in such a manner that the egress of vehicles from one state highway to another is unsafe. Specifically, he states that a culbert is sticking out in the roadway to such an extent that it is necessary for traffic to travel to the wrong side of the highway to avoid striking it.

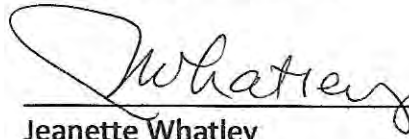
2. That the Respondent knew or should have known of these unsafe conditions, because there are accidents at that intersection almost every day. The ditch is littered with axles and parts from vehicles left there when they struck the said culbert. Further, after Claimant filed his Complaint, representatives of the Respondent came out and drew the lane lines wider as is evidenced by the attached photographs, identified as Exhibit "1."

3. That there are genuine issues of material fact so that the Respondent should not be entitled to a judgment as a matter of law.

WHEREFORE, Claimant prays that the Motion to Dismiss pending in this case be

dismissed and for any and all other proper relief to which he may be entitled.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'J. Whatley', is written over a horizontal line.

Jeanette Whatley

P. O. Box 942

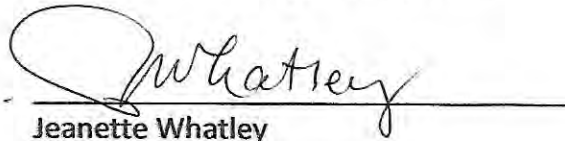
Marion, AR 72364

(870)714-1228

Attorney for the Claimant

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing upon Trella A. Sparks, Attorney for the Respondent, by placing a copy of it in the United States mail, postage prepaid and addressed to her at her regular business address this 1st day of June, 2021.

A handwritten signature in cursive script, appearing to read 'J. Whatley', is written over a horizontal line.

Jeanette Whatley

Exhibit "1"

