

Please note that all sections must be completed, or this form will be returned to you, which will delay the processing of your claim.

1. Claimant's Legal Counsel -
proceed to section 2)

☒ (If representing yourself (Pro Se) please check this box and

Arkansas
State Claims Commission
MAY 10 2021

(last name)

(first name)

(email)

(address)

(city)

(state)

(zip)

(primary phone)

Arkansas Bar Number

If not licensed to practice law in Arkansas, please
Contact the Claims Commission for more information.

2. Claimant

Kuehnert James
(title/last name/first name or company)

(email)

(address)

(city)

(state)

(zip)

(primary phone)

3. State Agency Involved: (must be an Arkansas state agency. The Arkansas Claims Commission has no jurisdiction over county, city, or other municipalities)

201
(state agency involved)

4. Incident Date

4-28-21

5. Claim Type

Please provide a brief explanation of your claim. If additional space is required, please attach additional statements to this form.

Broke shock and struts coming from 530
into North Little Rock

5a. Check here if this claim involves damage to a motor vehicle.



5b. Check here if this claim involves damage to property other than a motor vehicle.



All property damage claims require a copy of your insurance declarations covering the property or motor vehicle at the time of damage.

I did not have insurance covering my property/motor vehicle at the time of damage.



All property damage claims require ONE of the following (please attach):

1. Invoice(s) documenting repair costs, OR
2. Three (3) estimates for repair of the damaged property, OR
3. An explanation why repair bill(s) or estimate(s) cannot be provided.

6. Was a state vehicle involved? (If Yes, please complete the following section)

(type of state vehicle involved)

(license number)

(driver)

7. Check here if this claim involves personal injury.

All personal injury claims require a copy of your medical insurance information and relevant medical bills in place at the time of the incident.

I do not have health insurance ☐

8. Amount Sought: 743.00

The undersigned certifies that to the best of my knowledge, information, and belief, this claim is not being presented for any improper purpose; this claim is warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law; and the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

[Signature]
Claimant

ACKNOWLEDGEMENT

State of Arkansas
County of Jefferson

On this the 6th day of May, 20 20 before me, the undersigned notary, personally appeared James Wehner known to me (or satisfactorily proven) to be the person whose name is subscribed to this instrument and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Ajane J. Richards
Signature of Notary Public

My Commission expires: 01/28/2029



BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

JAMES KUEHNERT

CLAIMANT

V.

CLAIM NO. 211185

**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”) for summary judgment as to the claim of James Kuehnert (the “Claimant”). Based upon a review of Respondent’s motion, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed the instant claim, alleging that Claimant’s vehicle was damaged on I-530.
2. Respondent filed a motion to dismiss, and Claimant responded.
3. Based on the response filed by Claimant, Respondent then filed the instant motion for summary judgment, stating that Claimant’s damage occurred in a construction zone and that a third party, namely the prime contractor, would be responsible for any damage incurred by Claimant. Respondent confirmed that Kiewit Massman Construction was the prime contractor for that construction zone. To assist Claimant, Respondent provided the prime contractor’s name and address, as well as information regarding the prime contractor’s general liability insurer.
4. Claimant did not respond to the motion for summary judgment.
5. 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).

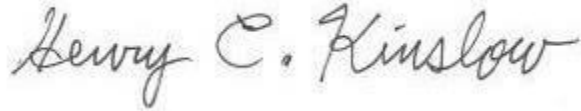
6. The Claims Commission finds that Respondent did make a *prima facie* showing in its motion that it was entitled to judgment as a matter of law. Because the prime contractor is not a state agency, the Claims Commission does not have jurisdiction over any claim against the prime contractor. That claim, should Claimant choose to pursue it, can be filed in a court of general jurisdiction. *See* Ark. Code Ann. § 19-10-204(b)(2)(A).

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

8. If Claimant chooses to file an insurance claim with the prime contractor’s insurer, the Claims Commission would encourage Claimant to notify Respondent about the final result of such claim, including the ease of filing a claim with the prime contractor’s insurer. That information may be useful to Respondent in the selection of a prime contractor for future construction projects.

9. Respondent’s motion for summary judgment is GRANTED, and Claimant’s claim is DENIED and DISMISSED. Respondent’s motion to dismiss is hereby rendered moot.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

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

DATE: November 2, 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).

From: [Cheryl Barnes](#)
To: [ASCC Pleadings](#)
Date: Saturday, November 20, 2021 6:33:56 PM

I James kuehnert 11 17 21 would like to appeal