

Please print in ink or type

Arkansas State Claims Commission

MAR 19 2020

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

MAR 24 2020

- Mr. Mrs. Ms. Miss

Leon Collins, Claimant

RECEIVED Do Not Write in These Spaces Claim No. Date Filed Amount of Claim \$ Fund

State of Arkansas, Respondent

COMPLAINT

Leon Collins, the above named Claimant, of (Name) (Street or R.F.D. & No.) (City)

(State) (Zip Code) (Daytime Phone No.) County of represented by (Legal Counsel, if any, for Claim)

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

State agency involved: Amount sought:

Month, day, year and place of incident or service: March 2, 2020

Explanation:

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? when? to whom? (Department)

and that \$ was paid thereon: (2) Has any third person or corporation an interest in this claim? 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 verify believes that they are true.

Leon Collins (Print Claimant/Representative Name) Yem Grooms (Signature of Claimant/Representative)

SWORN TO and subscribed before me at West Helena Arkansas (City) (State)

(SEAL) THOMAS JACKSON II Notary Public - Arkansas Philips County Commission # 12364530 My Commission Expires Feb 21, 2028 on this 20th day of March 2020 (Date) (Month) (Year)

SF1-R7/99 My Commission Expires February 21 2028 (Month) (Day) (Year)

ARKANSAS STATE CLAIMS COMMISSION
MOTOR VEHICLE ACCIDENT REPORT FORM

Arkansas State Claims Commission
 RECEIVED
 MAR 24 2020

SECTION I
 CLAIMANT Leon Collins
 CITY & STATE _____ ZIP CODE _____
 DATE OF ACCIDENT: _____ TIME: _____
 MOTOR VEHICLE DAMAGED: TYPE IMPALA MAKE Chevy YEAR 2006
 DRIVEN BY: Leon Collins ADDRESS _____

Give a brief description of accident, showing how accident happened, exact loss and extent of damage to car.
Hit a pot hole on 318 Phillips County Road

SECTION II
 Has this vehicle been repaired? Yes () No () If repairs have been made, give the following information: Amount \$ _____ Have you paid for the repairs? Yes () 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. <u>ther are price of parts detach</u>		\$ _____
2. <u>every body want me to bring it to them</u>		
3. <u>and want's To charge for Estimates don't have money</u>		

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

Comprehensive: Yes () No () What is your deductible? \$ none
 Collision: Yes () No () What is your deductible? \$ none

NAME OF INSURANCE CARRIER _____ ADDRESS _____

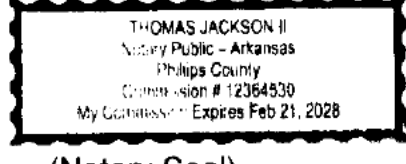
SECTION IV
 Type of State Vehicle involved _____ License No. _____

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.



Leon Collins
 Signature of Claimant
West Helena Arkansas
 City, State

Sworn to and subscribed before me at _____ on this 22 day of March 2020 year

My Commission Expires 2/21/2028 _____
 Notary Public

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

LEON COLLINS

CLAIMANT

V.

CLAIM NO. 200951

**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 Leon Collins (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. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204(a).

2. Claimant filed the instant claim, alleging that Claimant’s vehicle was damaged after hitting a pothole on a state highway.

3. Respondent filed a motion to dismiss, arguing that Claimant failed to show that Respondent had prior knowledge of a pothole yet failed to respond within a reasonable amount of time to repair it. Respondent seeks dismissal pursuant to Rule 12(b)(6) of the Arkansas Rules of Civil Procedure.

4. Claimant responded to the motion, arguing:

It is not my problem that the road[s] are not safe even the bridge is not safe it is falling and I own a home there and I have a child and we travel that road Please help for saf[e]ty Thanks.

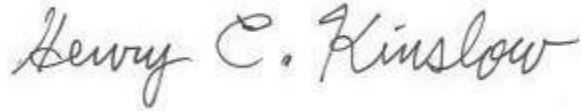
5. In reviewing this motion to dismiss, the Claims Commission must treat the facts alleged in the complaint as true and view them in a light most favorable to the Claimant. *See Hodges v. Lamora*, 337 Ark. 470, 989 S.W.2d 530 (1999). All reasonable inferences must be

resolved in favor of the Claimant, and the complaint must be liberally construed. *See id.* However, the Claimant must allege facts, not mere conclusions. *Dockery v. Morgan*, 2011 Ark. 94 at *6, 380 S.W.3d 377, 382. The facts alleged in the complaint will be treated as true, but not “a plaintiff’s theories, speculation, or statutory interpretation.” *See id.* (citing *Hodges*, 337 Ark. 470, 989 S.W.2d 530 (1999)).

6. The Claims Commission agrees with Respondent that dismissal of this claim is proper. Claimant did not allege any facts regarding Respondent’s prior knowledge of a pothole or failure to repair it within a reasonable amount of time. Respondent is unable to monitor every part of the nearly 16,000 miles of state highways at all times. Respondent is also unable to monitor every section of the nearly 16,000 miles of state highways that have had a pothole at one time. As stated by Respondent in the motion to dismiss, encountering a pothole is a risk assumed by the public in general as a part of travel. In the absence of evidence that Respondent had prior knowledge of the pothole that caused Claimant’s damage and failed to repair it in a reasonable amount of time, the existence of a pothole is insufficient to establish liability.

7. As such, Respondent’s Motion to dismiss is GRANTED, and Claimant’s claim is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

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

DATE: July 1, 2020

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: [Leon Collins](#)
To: [ASCC Pleadings](#)
Subject: Appeal
Date: Wednesday, July 8, 2020 3:13:23 PM

I Leon Collins is requesting for an appeal.