

**FILED**

OCT 18 2018

MARCI MOSLEY  
Circuit Clerk  
TEXAS COUNTY, MO

IN THE CIRCUIT COURT OF TEXAS COUNTY, MISSOURI

GEORGE SHOLTZ, )  
 )  
Plaintiff, )  
vs. )  
 )  
TEXAS COUNTY, MISSOURI, )  
 )  
Defendant. )

CASE NO. 17TE-AC00332

JUDGMENT

NOW ON THIS 15th day of October, 2018, the Court, having considered the pleadings, motions and proof, enters the following judgment:

1. Plaintiff filed his Petition for damages on November 17, 2017.
2. In his Petition, Plaintiff alleged that he suffered damages due to the loss of certain personal property caused by the failure of Defendant to maintain a public road, Hamilton Creek Road, located in Cass Township, Texas County, Missouri.
3. In his Petition, Plaintiff alleged that Defendant had the responsibility to maintain this road.
4. Defendant filed its Answer on December 11, 2017.
5. In its Answer, the Defendant denied that it owned or possessed Hamilton Creek Road.
6. In its Answer, the Defendant affirmatively stated that it did not possess or control Hamilton Creek Road.
7. The ownership and control of and/or the responsibility to maintain Hamilton Creek Road is a material fact in Plaintiff's cause of action.
8. Summary judgment is governed by Rule 74.04.

9. Defendant filed its Motion for Summary Judgment on April 23, 2018, together with its Statement of Uncontroverted Material Facts, and Suggestions in Support of its motion. Defendant filed affidavits with its Motion.
10. Plaintiff filed his Memorandum in Opposition to Defendant's Motion for Summary Judgment on May 16, 2018.
11. The Affidavit of Fred Stenger, filed April 23, 2018, included the factual statement that on the date of the incident which gave rise to Plaintiff's claim "Cass Township is a township located within Texas County."
12. The Affidavit of Fred Stenger, filed April 23, 2018, included the factual statement that on the date of the incident which gave rise to Plaintiff's claim "Cass Township was independently responsible for the maintenance and repair of the infrastructure within its boundaries, including roads."
13. The Affidavit of Fred Stenger, filed April 23, 2018, included the factual statement that on the date of the incident which gave rise to Plaintiff's claim "Texas County did not control, possess, or maintain the infrastructure or roads within Cass Township."
14. The Affidavit of Jack Watson, Maintenance Supervisor for Cass Township, filed April 23, 2018, included the factual statement that on the date of the incident which gave rise to Plaintiff's claim he had personal knowledge of roads and area where the accident described in Plaintiff's Petition occurred.
15. The Affidavit of Jack Watson, filed April 23, 2018, included the factual statement that on the date of the incident which gave rise to Plaintiff's claim occurred on a road within Cass Township that was controlled, possessed, and maintained by Cass Township.

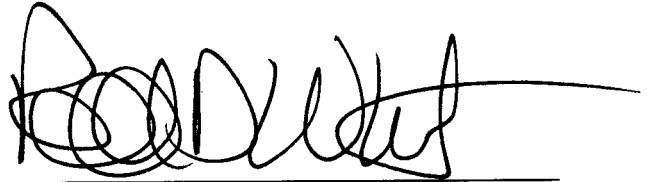
16. Plaintiff filed no affidavits, records, depositions, discovery responses or any other factual material which controverted the affidavits concerning the ownership, maintenance or control of Hamilton Creek Road, the public roadway upon which the incident occurred.

17. The Court finds that it is uncontroverted that Texas County, Missouri did not own, possess, control or maintain Hamilton Creek Road.

18. The Court concludes that Texas County, Missouri had no responsibility for maintaining Hamilton Creek Road and therefore as a matter of law cannot be held liable for damages resulting from a failure to properly maintain the road.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that summary judgment be entered in favor of Defendant and against the Plaintiff and that costs are taxed to Plaintiff.

SO ORDERED.



Ronald D. White  
Associate Circuit Judge

