

2013 JUL 26 PM 12:47

**ORIGINAL**

IN THE STATE OF OHIO

COURT OF CLAIMS

**2013-00432**

LAURA A. MARTIN, GUARDIAN OF )  
SARAH E. MARTIN, INCOMPETENT )  
1711 Essex Road )  
Columbus, Ohio 43221 )

CASE NO.

and )

JUDGE

JOHN F. MARTIN )  
1711 Essex Road )  
Columbus, Ohio 43221 )

**COMPLAINT**

and )

LAURA A. MARTIN )  
1711 Essex Road )  
Columbus, Ohio 43221 )

Plaintiffs, )

vs. )

STATE OF OHIO )  
c/o Attorney General Mike DeWine )  
30 East Broad Street, 14<sup>th</sup> Floor )  
Columbus, Ohio 43215 )

and )

OHIO DEPARTMENT OF )  
TRANSPORTATION )  
c/o Director Jeff Wray )  
1980 West Broad Street )  
Columbus, Ohio 43223 )

Defendants. )

**ON COMPUTER**

### FIRST CLAIM FOR RELIEF

1. The plaintiff, Laura A. Martin, is the Guardian of Sarah E. Martin, pursuant to Letters of Guardianship over the person and estate of Sarah E. Martin granted January 31, 2013 in Franklin County Probate Court, Case No. 558113.

2. The plaintiffs, John F. Martin and Laura A. Martin, who reside at 1711 Essex Road, City of Columbus, County of Franklin, State of Ohio, are the parents of the plaintiff's ward, Sarah E. Martin.

3. The defendant, Ohio Department of Transportation (hereinafter referred to as "ODOT"), is a public agency responsible for the maintenance of the roadways in Ohio, including US 35 in Liberty Township, Jackson County, Ohio.

4. At all times pertinent hereto, Sammy J. Smith, was operating an ODOT vehicle within the course and scope of his employment with ODOT. As such, ODOT is responsible for the conduct of its employee, Sammy J. Smith, under principles of *respondeat superior*.

5. On or about December 27, 2012, the defendants were clearing the north side of the eastbound berm of US 35 in Liberty Township in Jackson County, Ohio. At the same time and place, the plaintiff's ward, Sarah E. Martin, was traveling eastbound on US 35 when Sammy J. Smith negligently operated an ODOT vehicle, causing a collision with the vehicle driven by the plaintiff's ward, Sarah E. Martin.

6. At all times pertinent hereto, Sammy J. Smith, negligently operated his vehicle, cut off the plaintiff's ward, Sarah E. Martin's assured clear distance ahead, negligently changed lanes and negligently failed to warn of his intended incursion into the active lanes of eastbound US 35.

7. At all times pertinent hereto, ODOT negligently failed to provide proper warning and guidance to motorists traveling on US 35 that they were engaged in road maintenance, negligently failed to display regulatory, warning and guide signs on US 35, negligently failed to display proper conspicuity signs and otherwise negligently failed to comply with the Ohio Manual of Uniform Traffic Control Devices as well as other applicable rules, practices, procedures, policies and laws.

8. ODOT negligently entrusted its vehicle to Sammy J. Smith when it knew, or should have known, that Sammy J. Smith was a careless and/or reckless driver.

9. ODOT negligently failed to properly train Sammy J. Smith and negligently failed to ensure that Sammy J. Smith performed road maintenance work in a safe manner, in accordance with the Ohio Manual of Uniform Traffic Control Devices and other ODOT/Ohio manuals, including The Construction and Materials Specification, ODOT Construction Inspection Manual of Procedures, and ODOT Construction Policies, Procedures and Administrative Rules.

10. As a direct and proximate result of the negligence of the defendants, the plaintiff's ward, Sarah E. Martin, was caused to sustain catastrophic and permanent injuries, including, but not limited to, traumatic brain injury, multiple lower extremity

fractures and injuries to her back and neck.

11. As a further direct and proximate result of the above mentioned acts of negligence of the defendants, the plaintiff's ward, Sarah E. Martin, was caused to seek necessary medical care and treatment, and, in all likelihood, will be forced to incur additional necessary medical care and treatment into the indefinite future.

12. As a further direct and proximate result of the above mentioned acts of negligence of the defendants, the plaintiff's ward, Sarah E. Martin, was unable to engage in her usual occupation, thereby sustaining a loss of income. Further, her ability to earn a living has been permanently impaired.

13. As a further direct and proximate result of the above mentioned acts of negligence of the defendants, the plaintiff's ward's ability to live free from pain, discomfort, disability and restriction has been permanently impaired.

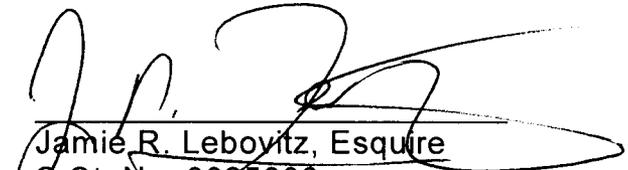
WHEREFORE, the plaintiff prays for judgment against the defendants in her First Claim For Relief in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with costs incurred herein.

### **SECOND CLAIM FOR RELIEF**

14. Now come the plaintiffs and for their second claim for relief reaffirms, restates and realleges the statements and allegations contained in their First Claim for Relief. The plaintiffs, John F. Martin and Laura A. Martin, as the parents of the plaintiff's ward, Sarah

E. Martin, have lost the services, society and consortium of their daughter, Sarah E. Martin, as a direct result of the injuries she sustained.

WHEREFORE, plaintiffs pray for damages against the defendants in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), together with costs incurred herein.



Jamie R. Leboyitz, Esquire  
S.Ct. No. 0025000  
Ellen M. McCarthy, Esquire  
S.Ct. No. 0046757

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— NUREMBERG PARIS HELLER & McCARTHY —

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July 25, 2013

Via Federal Express, Overnight Delivery

Court of Claims of Ohio  
The Ohio Judicial Center, Clerk of Courts  
65 South Front Street, Third Floor  
Columbus, Ohio 43215

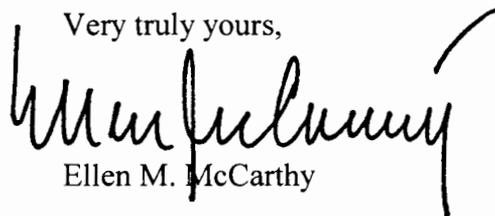
Re: Laura A Martin, Guardian of Sarah E. Martin, et al. v. State of Ohio, et al.  
My File Number: 76976

Dear Sir or Madam:

Enclosed you will please find an original and several copies of the **Complaint** along with the filing fee. Please file the original and return any extra time-stamped copies to my attention in the envelope I have provided. JMS

Please feel free to contact me if you have any questions.

Very truly yours,



Ellen M. McCarthy

EMM/cjp

Enclosures