



TO: Trustees, Oklahoma City Airport Trust

FROM: Jordan Medaris, Assistant Municipal Counselor/Attorney for the Trust

Claim of Phyllis Jones in the amount of \$5,829.81 be approved.

Background:

The Municipal Counselor's Office, on behalf of the Oklahoma City Airport Trust, acknowledges receipt of claim from the above-referenced claimant in where Ms. Jones alleges that while parked in the premium parking garage at Will Rogers World Airport during the dates of January 25-28, 2024 a gritty substance splashed or dripped onto the hood, bumper, and front of the claimant's vehicle damaging the paint. Damages are alleged in the amount of \$5,829.81, the cost of removing, repainting, and reinstalling parts of the front end of the vehicle as the substance could not be removed. This amount is supported by documentation.

Section 153(A) of the Governmental Tort Claims Act provides:

- A. The state or a political subdivision shall be liable for loss resulting from its torts or the torts of its employees acting within the scope of their employment subject to the limitations and exceptions specified in this act and only where the state or political subdivision, if a private person or entity, would be liable for money damages under the laws of this state. The state or a political subdivision shall not be liable under the provisions of The Governmental Tort Claims Act for any act or omission of an employee acting outside the scope of the employee's employment.

51 O.S. 2018 Supp. § 153(A).

According to the Oklahoma Supreme Court, a prima facie case of negligence is established by showing the following: "(1) a duty owed by the defendant to protect the plaintiff from injury, (2) a failure to properly exercise or perform that duty and (3) the plaintiff's injuries are proximately caused by the defendant's failure to exercise his duty of care." *McKellips v. Saint Francis Hospital, Inc.*, 741 P.2d 467, 470 (Okla. 1987) (citations omitted).

Proximate cause has two components - legal causation and cause in fact. *Id.* Cause in fact is determined by the "but for" test: "The defendant's conduct is a cause of the event if the event would not have occurred but for that conduct." *Id.* (citations omitted). "Proximate cause" is also a synonym for "legal cause." BLACK'S LAW DICTIONARY, 804 (6th Ed. 1990). To clarify this issue, the Oklahoma Supreme Court has further defined proximate cause: "The proximate cause

of an event must be that which in a natural and continuous sequence, unbroken by an independent cause, produces the event and without which the event would not have occurred." *Gaines v. Providence Apartments*, 750 P.2d 125, 126-27 (Okla. 1987) (citations omitted).

The Supreme Court of Oklahoma has held that "the municipality is not an insurer of safety of the traveling public." *Williams v. City of Bristow*, 350 P.2d 484 (Okla. 1960), *Rider v. City of Norman*, 476 P.2d 312, 313 (Okla. 1970), and *Evans v. City of Eufaula*, 527 P.2d 329, 332 (Okla. 1974). A political subdivision such as a municipality has a duty to exercise ordinary or reasonable care in maintaining the streets and sidewalks in a reasonably safe condition for those using them in a proper manner. *Rider v. City of Norman*, 476 P.2d 312, 313 (Okla. 1970) and *Evans v. City of Eufaula*. 527 at 332. A municipality is liable only for negligence in failing to repair, remove or guard against substantial defects or obstructions after actual or constructive notice of their existence. *Williams* at 488.

This office is in receipt of information that there were reports of the condition within the parking garage prior to the claimant's incident. The Department of Airports has advised that there have been similar claims in the past where the Airport has attempted to find the source and has paid the claim. The Airport will continue to investigate the cause of the damage.

Based on the above information and applicable law, it is the opinion of this office that this claim should be approved in the sum of \$5,829.81. Ms. Jones has provided a release of all claims arising from the accident, provided the claim is approved by the Trust.

Recommendation: Claim be approved.