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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A10-668**

Gerard L. Roy,  
Appellant,

vs.

Associated Bank, Bank-Corp,  
Respondent.

**Filed January 18, 2011  
Affirmed  
Worke, Judge**

Dakota County District Court  
File No. 19HA-CV-09-6714

Gerard L. Roy, Prior Lake, Minnesota (pro se appellant)

Karl J. Yeager, Jonathan D. Miller, Meagher & Geer, P.L.L.P., Minneapolis, Minnesota  
(for respondent)

Considered and decided by Kalitowski, Presiding Judge; Lansing, Judge; and  
Worke, Judge.

**UNPUBLISHED OPINION**

**WORKE**, Judge

Appellant argues that the district court erred by dismissing his complaint as time-  
barred. We affirm.

## DECISION

Appellant Gerard L. Roy argues that the district court erred by dismissing his claim against respondent Associated Bank, Bank-Corp, alleging breach of a duty of ordinary care under Minn. Stat. §§ 336.4-101 to .4-504 (2008). Actions to enforce a duty arising out of this article are subject to a three-year statute of limitations. Minn. Stat. § 336.4-111. “[T]he statute of limitations begins to run when an actionable injury is discovered or, with due diligence, should have been discovered.” *Dakota County v. BWBR Architects, Inc.*, 645 N.W.2d 487, 492 (Minn. App. 2002), *review denied* (Minn. Aug. 20, 2002). The applicability of a statute of limitations is a legal question reviewed *de novo*. *Benigni v. County of St. Louis*, 585 N.W.2d 51, 54 (Minn. 1998).

Appellant’s complaint alleged that he requested that respondent place an immediate hold on his business bank account on September 5, 2006, due to suspected theft by one of his employees. Respondent placed a hold on the account no later than September 20, 2006. Appellant claimed that the theft continued due to respondent’s delay. The district court concluded that the statute of limitations began to run in September 2006. Appellant argues that the district court erred in applying the statute of limitations and asserts that the three-year period did not run until November 2006, when respondent declined to reimburse him for the money allegedly stolen by the employee.

Appellant’s argument is unconvincing. The injury asserted by appellant is respondent’s delay in placing a hold on his business bank account, not respondent’s refusal to reimburse him for his loss. Appellant discovered, or should have discovered, this delay when the hold was actually placed on the account in September 2006, which

triggered a three-year-limitations period set to expire in September 2009. Appellant commenced this action on November 6, 2009, outside of this three-year limitations period. Accordingly, appellant's claim is time-barred by Minn. Stat. § 336.4-111, and the district court did not err in dismissing appellant's claim.

**Affirmed.**