

# Court of Claims of Ohio

The Ohio Judicial Center  
65 South Front Street, Third Floor  
Columbus, OH 43215  
614.387.9800 or 1.800.824.8263  
www.cco.state.oh.us

DAN ZERNHEL

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION, DISTRICT 2

Defendant

Case No. 2010-12192-AD

Deputy Clerk Daniel R. Borchert

## ENTRY OF DISMISSAL

{¶ 1} On November 29, 2010, plaintiff, Dan Zernhel, filed a complaint against defendant, Department of Transportation. Plaintiff asserts due to defendant's negligence his farm flooded. Consequently, plaintiff had to hire a contractor to repair damage to highway tiles damaged by defendant. Plaintiff submitted a bill from Sheeks Farm Drainage & Excavating dated August 6, 2008.

{¶ 2} On January 20, 2011, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} "On August 6, 2008, the plaintiff, Dan Zernhel, had a contractor fix some field tile after his field kept flooding. The work done by the State of Ohio, almost two years earlier, on the corner of SR 18 and Weston Road cut off the farm tile and caused water problems on the farm. Plaintiff started calling Harry Bare at the Bowling Green Office on December 16, 2009, to seek reimbursement of his \$200.00 invoice (See Exhibit A).

{¶ 4} "Since the work had been done more than two years before, the contractor

is no longer liable. On November 29, 2010, Plaintiff Zernhel filed a complaint with the Court of Claims of Ohio seeking reimbursement of repair costs from defendant.

{¶ 5} “Defendant asserts plaintiff has failed to file his complaint in a timely manner.”

{¶ 6} Ohio Revised Code Section 2743.16(A) in pertinent part states:

{¶ 7} “Subject to division (B) of this section, civil actions against the state . . . shall be commenced *no later than two years after the date of accrual of the cause of action* or within any shorter period that is applicable to similar suits between private parties.” (Emphasis added.)

{¶ 8} Plaintiff’s cause of action accrued on August 6, 2008. Plaintiff had until August 6, 2010, pursuant to R.C. 2743.16(A), to file a complaint. Plaintiff did not file until November 29, 2010. Accordingly, plaintiff’s claim is barred by the statute of limitations. Defendant’s motion to dismiss is GRANTED. Plaintiff’s case is DISMISSED. The court shall absorb the court costs of this case.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Dan Zernhel  
22867 Deshler Road, SR 18  
Deshler, Ohio 43516

Chester T. Lyman, Jr.  
Department of Transportation  
1980 West Broad Street  
Columbus, Ohio 43223

DRB/laa  
2/22  
Filed 3/10/11  
Sent to S.C. reporter 5/27/11