



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

ACCURATE TESTING LABORATORIES, L.L.C.,

Plaintiff,

Case No. 2011-02689-AD

v.

DEPARTMENT OF NATURAL RESOURCES,

Acting Clerk Daniel R. Borchert

Defendant.

MEMORANDUM DECISION

{¶ 1} On February 17, 2011, plaintiff, Accurate Testing Laboratories, LLC., filed a complaint against defendant, Department of Natural Resources. Plaintiff asserts it performed additional work in procuring the names of experts who could assist defendant. Plaintiff charged defendant \$600.00 for the time and effort plaintiff exerted in finding qualified persons. Plaintiff submitted a copy of a bill dated June 18, 2008, which referenced an invoice number 121007 for \$600.00 past due as of December 10, 2007. Plaintiff also included a copy of a letter dated August 27, 2008, and addressed to Mr. Doug Miller and Mr. Brett Barnes at defendant's Ohio Fish & Wildlife Dept. In the letter, plaintiff explained that Barnes had contacted plaintiff seeking competent expert witnesses who were capable of interpreting laboratory data and who would be available to testify at a hearing if necessary. Plaintiff recalled advising Barnes that considerable

work was being done toward this request and that plaintiff intended to charge defendant for its time. Plaintiff acknowledged that Barnes stated he “wasn’t sure” his agency would approve additional payments. In the letter, plaintiff requested “reconsideration for approval of this legitimate billing for our work.”

{¶ 2} On April 22, 2011, defendant filed an investigation report and on May 25, 2011, defendant filed an amended report. Defendant asserted that plaintiff’s cause of action is barred by the two-year statute of limitations. Defendant pointed out that plaintiff filed this complaint on February 17, 2011, in reference to a fee of \$600.00 that plaintiff alleged was “past due” as of December 10, 2007.

{¶ 3} On May 11 and June 17, 2011, plaintiff filed responses wherein plaintiff essentially reiterated the allegations contained in the complaint.

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

{¶ 5} “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.)

{¶ 6} “Under Ohio law, a cause of action to recover money allegedly wrongfully withheld accrues when the money is actually withheld. *Children's Hosp. v. Dept. of Public Welfare* (1982), 69 Ohio St.2d 523, 23 O.O.3d 452, 433 N.E.2d 187.” *Osborn Co. v. Department of Administrative Services* (1992), 80 Ohio App. 3d 205, 207-208, 608 N.E. 2d 1149.

{¶ 7} Based upon the documentation submitted by plaintiff, his cause of action accrued, when the amount became due, on December 10, 2007. Even assuming plaintiff believed that defendant would approve the \$600.00 charge, plaintiff was on

notice as of August 27, 2008, that defendant had refused to pay the fee. Plaintiff filed his complaint in February 2011, well after the two-year statute of limitations had expired. Accordingly, plaintiff's claim is barred by the statute of limitations.



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ENTRY OF ADMINISTRATIVE DETERMINATION

{¶ 8} Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff's claim is DISMISSED. Court costs are absorbed by the court.

DANIEL R. BORCHERT
Acting Clerk

Entry cc:

Accurate Testing Laboratories, LLC.
2779 Rockefeller Avenue
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6/21
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