

[Cite as *Cohen v. Ohio Dept. of Taxation*, 2002-Ohio-420.]

Like the federal act, the Ohio act was passed to censure frivolous government action which coerces a party to resort to the courts to protect his or her rights. *Malik v. Ohio State Med. Bd.* (Oct. 2, 1989), Franklin App. No. 88AP-741, unreported.

This serves to "*** encourage relatively impecunious private parties to challenge unreasonable or oppressive governmental behavior by relieving such parties of the fear of incurring large litigation expense." *Spencer v. NLRB* (C.A.D.C.1983), 712 F.2d 539, 549.

Pursuant to R.C. 2335.39(B)(1), "a prevailing eligible party *** shall file a motion requesting the award with the court within thirty days after the court enters final judgment in the action or appeal. ***" Plaintiff's civil action was brought before the Cuyahoga County Court of Common Pleas, which has the exclusive jurisdiction to rule upon plaintiff's request for costs and attorney fees associated with such action. Therefore, this court is without jurisdiction over plaintiff's claims.

Defendant's motion to dismiss is GRANTED and plaintiff's case is hereby DISMISSED. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

JUDGE

Entry cc:

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ENTRY

Columbus, Ohio 43215

KWP/cmd

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