

[Cite as *Salerno v. Unknown*, 2006-Ohio-7216.]

IN THE COURT OF CLAIMS OF OHIO

D.M. SALERNO	:	
Plaintiff	:	
v.	:	CASE NO. 2006-02307-AD
UNKNOWN	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	

: : : : : : : : : : : : : : :

{¶ 1} On March 7, 2006, plaintiff filed a complaint against Jwin Electronics Corp. Plaintiff submitted the filing fee with the complaint. On March 8, 2006, the court issued an entry dismissing Jwin Electronics Corp. as defendant, since pursuant to R.C. 2743.02(E), only state agencies and instrumentalities can be defendants in original actions in the Court of Claims. Plaintiff was ordered to file an amended complaint naming a state entity as defendant on or before April 7, 2006, or face dismissal of his case.

{¶ 2} On March 20, 2006, plaintiff submitted a letter requesting his case be dismissed since the party he wished to sue was not a state agency or instrumentality. He also requested the return of his filing fee.

{¶ 3} Upon review, the court finds plaintiff's letter is considered a motion for voluntary dismissal and is GRANTED. Plaintiff's case is DISMISSED without prejudice. Plaintiff's request for return of the filing fee is DENIED. Plaintiff's filing fee may only be returned when plaintiff's case against

defendant is successfully concluded in plaintiff's favor. See *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19. Court costs are absorbed by the court. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

D.M. Salerno, #412-224  
P.O. Box 80033  
Toledo, Ohio 43608

Plaintiff, Pro se

DRB/laa  
6/29  
Filed 7/13/06  
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