

OPINION SUMMARY
MISSOURI COURT OF APPEALS – EASTERN DISTRICT

STATE OF MISSOURI, ex rel., GASCONADE)	No. ED91493
COUNTY, SANDRA LACKMAN and)	
MATTHEW PENNING,)	
Respondents/Cross-Appellant,)	Appeal from the Circuit Court
)	of Franklin County
vs.)	07GA-CC00009-01
)	
RONALD JOST, JERRY LAIRMORE and)	Hon. Cynthia Marie Eckelkamp
MAX AUBUCHON in their individual capacity,)	
Appellants,)	
And RONALD JOST, JERRY LAIRMORE and)	
MAX AUBUCHON in their official capacities,)	
Cross-Respondents.)	FILED: June 23, 2009

Ron Jost¹, Jerry Lairmore (Lairmore), and Max Aubuchon (Aubuchon) (collectively Defendants), in Their Individual Capacities and Official Capacities as Commissioners of Gasconade County, Missouri, appeal from the trial court's grant of summary judgment in favor of State of Missouri, County of Gasconade, ex rel., Sandra Lackman and Matthew Penning, as Residents and Taxpayers of Gasconade County, Missouri, (collectively Plaintiffs) on Plaintiffs' First Amended Petition alleging Lairmore and Aubuchon wrongfully received mid-term pay increases, which Defendants thereafter refused to repay.² We reverse and remand.³

REVERSED AND REMANDED.

Division Four Holds: The trial court erred in: (1) granting summary judgment in favor of Plaintiffs because their claim was barred by the five-year statute of limitations, Section 516.120.2 RSMo 2000; and (2) in ordering Defendants to pay Plaintiffs' attorneys' fees because the statute of limitations barred Plaintiffs' claim and, therefore, Plaintiffs did not have a viable cause of action for which they could be awarded attorneys' fees.

Opinion by Mary K. Hoff, Judge Kathianne Knaup Crane, Presiding Judge and Kenneth M. Romines, Judge: Concur.

Attorney for Appellant
Attorney for Respondent/Cross-Appellant

Ivan L. Schraeder, Thomas E. Loraine
David L. Baylard

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>

¹ Ron Jost is not a party in this appeal.

² The trial court also granted summary judgment in favor of Defendants on Plaintiffs' claim against them in their Official Capacities. Defendants do not appeal that ruling.

³ Plaintiffs filed a motion for attorneys' fees on appeal, which was taken with the case. Plaintiffs' motion is denied.

