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**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**



CHALFANT SEWING FABRICATORS,  
INCORPORATED  
Plaintiff

Case No: CV-10-735450

Judge: BRENDAN J SHEEHAN

CENTRTAL TRANSPORT  
Defendant

**JOURNAL ENTRY**

96 DISP.OTHER - FINAL

OPINION AND JUDGMENT ENTRY. O.S.J.  
COURT COST ASSESSED AS EACH THEIR OWN.

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Judge Signature

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Date

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

CHALFANT SEWING FABRICATORS, )  
INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
 )  
CENTRAL TRANSPORT, INC., )  
 )  
Defendant. )

CASE NO. CV 10 735450

JUDGE BRENDAN J. SHEEHAN

**OPINION AND JUDGMENT  
ENTRY**



This matter is before the Court on Central Transposrt, Inc.'s ("CTI's") Motion for Summary Judgment. The issues have been fully briefed to the Court.

Although Plaintiff Chalfant Sewing Fabricators, Inc.'s ("Chalfant's") Complaint alleges that it provided goods and services to CTI and that CTI breached its agreement with Chalfant by refusing to pay for the goods and services, the undisputed facts presented to the Court provided a different scenario. In fact, CTI provided transportation services to Chalfant and, according to Chalfant, CTI failed to compensate it for damage or loss occurring during the transport of the goods.

Under Civ.R. 56, summary judgment is appropriate when, (1) no genuine issue as to any material fact exists, (2) the party moving for summary judgment is entitled to judgment as a matter of law, and (3) viewing the evidence most strongly in favor of the nonmoving party, reasonable minds can only reach one conclusion which is adverse to the non-moving party. *Holliman v. Allstate Ins. Co.* (1999), 86 Ohio St.3d 414; *Temple v. Wean United, Inc.* (1997), 50 Ohio St.2d 317, 327. When a motion for summary judgment is properly made and supported, the nonmoving party must set forth specific facts showing that there is a genuine issue for trial

and may not merely rest on allegations or denials in the pleadings. *Dresher v. Burt* (1996), 75 Ohio St.3d 280. The nonmoving party must produce evidence on any issue for which that party bears the burden of production at trial. *Wing v. Anchor Media, Ltd.* (1991), 59 Ohio St.3d 108, 111. Further, to survive summary judgment, a plaintiff must produce more than a scintilla of evidence in support of her position. *Markle v. Cement Transit Co., Inc.* (1997), 1997 WL 578940, 2, citing *Redd v. Springfield Twp. School District* (1993), 91 Ohio App.3d 88, 92.

All claims concerning “transportation by a motor carrier . . . between a place in a State and place in another State or . . . [a place in] the United States and a place in a foreign country to the extent the transportation is in the United States” is governed exclusively by the Carmack Amendment. 49 USC §14706. It is well-established that the Carmack Amendment preempts all state law remedies related to claims for loss, damage or delay of goods transported in interstate commerce. *Adams Express Co., v. Croninger* (1913), 226 U.S. 491, 505-06.

Chalfant’s common law claims are, therefore, expressly preempted by federal law. Even construing Chalfant’s breach of contract claim in a light most favorable to it, CTI asserts the following:

10. Despite the terms and conditions stated above, Chalfant did not file a claim against CTI until August 30, 2007, over three (3) years after the last freight claim submitted to CTI was denied in writing.
11. While Chalfant has not specified the claims for which it seeks payment, all other claims submitted by Chalfant to CTI were made, and either paid or denied by CTI, prior to Claim No. 705121, and thus outside the two (2) year filing period.

Affidavit of Jessica Galvin, Ex. B to Defendant’s Motion for Summary Judgment.

Chalfant has failed to refute CTI’s properly submitted Civ.R. 56 evidence by offering any evidence of any claim submitted to CTI that falls within the two-year filing period. As such, Chalfant has failed to establish that any genuine issue of material fact exists supporting its claim.

DEFENDANT CENTRAL TRANSPORT, INC.'S MOTION FOR SUMMARY JUDGMENT IS GRANTED. JUDGMENT IN FAVOR OF DEFENDANT CENTRAL TRANSPORT, INC. AND AGAINST PLAINTIFF CHALFANT SEWING FABRICATORS, INC. EACH PARTY TO BEAR THEIR OWN COSTS.

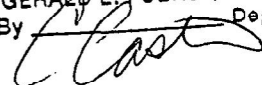
IT IS SO ORDERED.

  
JUDGE BRENDAN J. SHEEHAN

Dated: 3.14.11

RECEIVED FOR FILING

MAR 15 2011

GERALD E. FUERST, CLERK  
By  Deputy

CERTIFICATE OF SERVICE

A copy of the foregoing was served by mail this 14<sup>th</sup> day of March, 2009 on the following:

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