

MEMORANDUM

TO: Sam Smith
FROM: Warren Carr
DATE: 1/1/2026
RE: **Effect of Jurisdictional Dismissal on Tolling, Class Claims, and Unjust Enrichment**

QUESTION PRESENTED

Whether the dismissal of case for lack of subject-matter jurisdiction, entered through a mandamus or prohibition action requiring the claims to be brought before the Public Utilities Commission of Ohio, constitutes a failure other than on the merits under Ohio law. If so, what effect does that dismissal have on (1) the ability to pursue those claims as a class action and (2) on an unjust enrichment claim.

SHORT ANSWER

Under Ohio law, a dismissal for lack of subject-matter jurisdiction, including one effected through mandamus or prohibition, is typically considered a failure other than on the merits and generally triggers Ohio's savings statute, ORC. 2305.19(A), allowing a plaintiff one year to refile a timely asserted claim.

The dismissal for lack of subject-matter jurisdiction effectively ends the case's class posture. Although the dismissal is not on the merits, tolling principles preserve only individual claims and do not permit the refiling or continuation of an uncertified class action. Accordingly, the claims are unlikely to be pursued successfully as a class following the jurisdictional dismissal.

The jurisdictional dismissal does not extinguish the unjust enrichment claim. Because the dismissal resolves only the proper forum and not the validity of the claim, the unjust enrichment claim is preserved and may proceed in the proper forum, subject to any administrative exhaustion requirements.

ANALYSIS

Effect on the Class Action

The dismissal of the putative class action for lack of subject-matter jurisdiction, via mandamus requiring proceedings before PUCO, effectively ends the case's class posture. Although such a dismissal is not on the merits, class-action tolling principles preserve individual claims only, not the ability to refile or maintain a successive or renewed class action. *Am. Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 553–54 (1974) (stating that tolling applies to individual claims of putative class members).

Under *American Pipe & Construction Co.*, the filing of a class action tolls statutes of limitation for putative class members who later pursue individual claims. *American Pipe* at 553–

54. The Supreme Court reaffirmed that principle in *Crown, Cork & Seal Co. v. Parker*, holding that putative class members may file individual actions after denial of class certification, but the tolling operates to protect individual, not class, claims. *Crown v. Parker*, 462 U.S. 345, 350–51 (1983). Critically, *China Agritech, Inc. v. Resh* forecloses the use of *American Pipe* tolling to file successive class actions after the limitations period has expired, emphasizing that efficiency and repose concerns bar indefinite relitigation of class status. *China Agritech, Inc. v. Resh*, 584 U.S. 732, 742 (2018).

Accordingly, while individual claims remain viable, any attempt to revive the matter as a class action after a jurisdictional dismissal is unlikely to succeed.

Tolling / Savings Statute

Under Ohio law, a dismissal for lack of subject-matter jurisdiction constitutes a failure otherwise than on the merits, triggering Ohio’s savings statute, ORC 2305.19(A), which allows refile within one year of dismissal if the original action was timely filed. Ohio courts have long recognized that jurisdictional dismissals fall within the savings statute. *Wasyk v. Trent*, 174 Ohio St. 525, 528 (1963). Any refiled action must also satisfy Ohio Civ.R. 3(A), the action is “commenced” only if service is obtained within one year of filing. Ohio Civ. R. 3.

Effect on Unjust Enrichment

A jurisdictional dismissal does not extinguish an unjust-enrichment claim. When a court lacks subject-matter jurisdiction because another forum has exclusive original jurisdiction, the claim is preserved and may proceed in the proper forum. In *Great West Casualty Co. v. Ohio Bureau of Workers’ Compensation*, the Ohio Supreme Court confirmed that unjust-enrichment claims are cognizable once jurisdictional prerequisites are satisfied. *Great W. Cas. Co. v. Ohio Bureau of Workers’ Comp.*, 2015-Ohio-1555, ¶¶ 10, 18–20 (Ct. App.). Unjust-enrichment claims falling within PUCO’s exclusive jurisdiction must proceed administratively first, with judicial remedies potentially available thereafter. *Great West Casualty Co.* at ¶¶ 10, 19 (recognizing unjust enrichment claims as cognizable when properly within the tribunal’s jurisdiction).

CONCLUSION

The dismissal of the underlying class action for lack of subject-matter jurisdiction, entered through mandamus/prohibition and requiring the claims to proceed before PUCO, does not adjudicate the merits and therefore constitutes a failure otherwise than on the merits under Ohio law. As a result, Ohio’s savings statute, R.C. 2305.19(A), is triggered, and the plaintiffs generally have one year to refile any timely asserted claims, provided the refiled action is properly commenced and served under Ohio Civ.R. 3. Ohio Rev. Code Ann. § 2305.19.

Accordingly, individual unjust-enrichment claims are preserved and may proceed in the proper forum (PUCO first, with potential judicial remedies thereafter). By contrast, the class-action posture is unlikely to survive the jurisdictional dismissal; tolling principles protect individual claims but do not preserve the right to reassert an uncertified class action after dismissal. The practical path forward is to focus on PUCO proceedings while preserving and timely recommencing individual claims, rather than attempting to revive class claims.