

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

AMERICAN SITE CONTRACTORS, INC.,	:	MEMORANDUM OPINION
Plaintiff-Appellee,	:	
- vs -	:	CASE NO. 2005-L-088
CITY OF WILLOWICK, OHIO, et al.,	:	
Defendants,	:	
AMERICAN ARBITRATION ASSOCIATION,		
Defendant-Appellant.		

Civil Appeal from Court of Common Pleas, Case No. 05 CV 000283

Judgment: Appeal Dismissed.

Frank R. Brancatelli, 35000 Kaiser Court, #304, P.O. Box 790, Willoughby, OH 44094-0790 (For Plaintiff-Appellee).

Scott P. Sandrock and John L. Juergensen, Black, McCuskey, Souers & Arbaugh, 1000 Unizan Bank Plaza, 220 Market Avenue, South, Canton, OH 44702 (For Defendant-Appellant).

DONALD R. FORD, P.J.,

{¶1} On June 13, 2005, Appellant, American Arbitration Association, filed a notice of appeal from a May 11, 2005 judgment of the Lake County Court of Common

Pleas. In that judgment, the trial court denied Appellant's Civ.R. 12(B)(6) motion to dismiss the case for failure to state a claim upon which relief could be granted.

{¶2} The general rule is that the denial of a motion to dismiss is not a final appealable order. *Lakewood v. Pfeifer* (1992), 83 Ohio App.3d 47, 50. R.C. 2744.02 specifically declares that the denial of a motion to dismiss when sovereign immunity is alleged by the defendant is an exception to the general rule. In that scenario, the denial of a motion to dismiss based upon sovereign immunity is immediately appealable. *Oliver v. Phelps*, 11th Dist. No. 2003-T-0184, 2004-Ohio-2787.

{¶3} However, by the language used in R.C. 2744.02(C), it is clear the abovementioned exception only applies when the trial court's order denies "a political subdivision or an employee of a political subdivision the benefit of an alleged immunity from liability." In the present case, the motion to dismiss had been filed by Appellant, American Arbitration Association. Thus, the exception set forth in R.C. 2744.02(C) does not apply to this case.

{¶4} This appeal is hereby sua sponte dismissed for lack of a final appealable order.

DIANE V. GRENDALL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.