

Posted May 6, 2009

Supreme Court: Political Subdivision May Appeal Denial of Immunity Without Civ.R. 54(B) Certification

In an appeal supported by OACTA's amicus curiae program, the Supreme Court ruled yesterday that an order denying immunity to a political subdivision is a final appealable order, even when the order lacks a Civ.R. 54(B) certification of "no just cause for delay." The Court's opinion is *Sullivan v. Anderson Township* (2009), 2009-Ohio-1971. Frank Scialdone, of Mazanec, Raskin, Ryder & Keller Co., L.P.A., authored an amicus curiae brief on behalf of OACTA supporting the Appellant, Anderson Township. As urged by OACTA, the Court reasoned that R.C. § 2744.02(C) authorizes an immediate appeal, stating a "trial court has no discretion to determine whether to separate claims or parties and permit an interlocutory appeal." *Sullivan* at ¶ 12. The ruling is crucial for public entities and OACTA members who defend them, says Scialdone. "A public entity's right to immunity is meaningless if a trial court can deny an immediate appeal of an adverse immunity ruling. Today's decision properly recognizes the Legislature's intent to provide an absolute right to an immediate appeal, without regard to the trial court's discretion."

The OACTA Board congratulates Frank and expresses its appreciation for his support of the Amicus Curiae program.