

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Blake Homes, Ltd.

Court of Appeals No. L-03-1312

Appellant

Trial Court No. CI-2001-05144

v.

FirstEnergy Corp. Etc.

DECISION AND JUDGMENT ENTRY

Appellees

Decided: August 27, 2004

* * * * *

Terry J. Lodge, for appellant.

Denise M. Hasbrook and Brad A. Rimmel, for appellees.

* * * * *

HANDWORK, P.J.

{¶1} This appeal is taken from the October 7, 2003 judgment of the Lucas County Court of Common Pleas. This appeal is transferred to our accelerated docket pursuant to Loc.App.R. 12(C).

{¶2} On March 27, 2003, the trial court granted summary judgment to appellee, FirstEnergy Corp., finding that the claim asserted by appellant, Blake Homes, Ltd., was

barred by the doctrine of res judicata. Appellee then sought sanctions against appellant for filing a frivolous action and opposing appellee's motion for summary judgment. The court granted sanctions on October 7, 2003. However, in our decision and judgment entry dated February 27, 2004, we reversed the trial court's March 27, 2003 decision, which granted summary judgment.

{¶3} Because we held that appellant's claim is not barred by the doctrine of res judicata and summary judgment was inappropriate, there no longer is a basis for imposing sanctions against appellant. For that reason alone, appellant's four assignments of error challenging the imposition of sanctions are found well-taken. The judgment of the Lucas County Court of Common Pleas is reversed. Pursuant to App.R. 24, appellee is hereby ordered to pay the court costs incurred on appeal.

JUDGMENT REVERSED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4, amended 1/1/98.

Peter M. Handwork, P.J.

JUDGE

Richard W. Knepper, J.

JUDGE

Mark L. Pietrykowski, J.
CONCUR.

JUDGE