

COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

COURT OF COMMON PLEAS  
ENTER  
HON. CHARLES J. KUBICKI, JR.  
THE CLERK SHALL SERVE NOTICE  
TO PARTIES PURSUANT TO CIVIL  
RULE 58 WHICH SHALL BE TAXED  
AS COSTS HEREIN. 3/27/06

CITY OF CINCINNATI, OHIO	:	Case No. A 0509129
	:	
Plaintiff,	:	Judge Charles J. Kubicki, Jr.
	:	
vs.	:	
	:	<b>DECLARATORY JUDGMENT</b>
QUEEN CITY LODGE NO. 69,	:	<b>AND PERMANENT INJUNCTION</b>
FRATERNAL ORDER OF POLICE, <i>et. al.</i>	:	
Defendants.	:	



This cause came before this Court pursuant to the Complaint for Declaratory Judgment and Application for Temporary Restraining Order, Preliminary and Permanent Injunction filed by Plaintiff. By previous Entry, this Court granted the Application. After a hearing on the Application, the parties submitted Stipulations and additional briefs. By agreement of the parties, confirmed by the Court via an off-record telephone conversation with counsel, the Court is to decide this case based on the evidence presented at the hearing, the Stipulations and pleadings in lieu of a trial or subsequent hearing. Upon consideration thereof the Court finds in favor of the Plaintiff.<sup>1</sup>

Specifically, Plaintiff seeks a declaratory judgment finding that the grievance is not re-arbitrable as well as injunctive relief prohibiting Defendant, Queen City Lodge No. 69, Fraternal Order of Police ("Union"), and the American Arbitration Association ("AAA") from issuing an arbitration hearing date until this Court has ruled on the Plaintiff's Complaint for Declaratory Judgment.

The Court finds that the grievance at issue concerned the dismissal of Victor Spellen ("Spellen") and was previously arbitrated pursuant to the parties' collective-bargaining

<sup>1</sup> RC 2711.01 *et. seq.*; *Amalgamated Transit Union, Local 627 v. Southwest Ohio Regional Transit Authority* (1996), 96-LW-3096, C-950635 (1<sup>st</sup> Dist).

agreement. The original arbitration decision was appealed and the trial court vacated the arbitrators' award and upheld Spellen's termination.<sup>2</sup> The Court of Appeals affirmed the trial court's decision.<sup>3</sup> Neither court remanded the matter for further arbitration.

Accordingly, IT IS ORDERED AND ADJUDGED that the grievance at issue has been arbitrated, appealed and decided such that any attempt to re-arbitrate the grievance is barred by the doctrine of *res judicata*. Defendants, Union and AAA, are hereby permanently enjoined from issuing an arbitration hearing date or otherwise arbitrating the grievance. All court costs shall be taxed to the Defendant, Union.

IT IS SO ORDERED.

THIS IS A FINAL APPEALABLE ORDER AND THERE IS NO JUST REASON FOR DELAY.

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Judge

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<sup>2</sup> Hamilton County Case No. A 0401110.

<sup>3</sup> Hamilton County Case No. C-040454.

COPIES SENT VIA FACSIMILE AND REGULAR MAIL TO:

Jonathan Downes, Esq. & Todd Ellsworth, Esq., Attorneys for Plaintiff  
Stephen Lazarus, Esq. & Kimberly Rutowski, Esq., Attorneys for Defendant, Queen City Lodge  
No. 69, Fraternal Order of Police.  
American Arbitration Association, Defendant, c/o Sasha Carbonc, Esq., Associate General  
Counsel

NOTICE TO CLERK OF COURTS

Please send, via regular mail, copies of the foregoing Judgment to the parties or their respective counsel of record.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Judgment have been sent by ordinary mail to all parties or their respective counsel of record.

Date: \_\_\_\_\_ Deputy Clerk: \_\_\_\_\_