

Cleveland Clinic Foundation (Beachwood Family Health and Surgery Center), and Cleveland Municipal School District Board of Education

Case No. 2008-0411

E N T R Y

v.

William W. Wilkins [Richard A. Levin], Tax Commissioner of Ohio, and the Beachwood City School District Board of Education

This cause is pending before the Court as an appeal from the Board of Tax Appeals. The appellee Tax Commissioner has filed a motion to dismiss the appeal for want of jurisdiction. Upon consideration thereof,

It is ordered by the Court, sua sponte, that merit briefing pursuant to S.Ct.Prac.R. VI is hereby stayed until further order of this Court.

It is further ordered that the parties are to file memoranda addressing the following two issues:

- 1.) When a public office as litigant obtains documents through civil discovery, do those documents become “public records” that the agency must disclose upon request, or do those documents qualify as “trial preparation records” that are exempt from public records disclosure pursuant to R.C. 149.43(A)(1)(g)?
- 2.) After *State ex rel. WBNS TV v. Dues*, 101 Ohio St.3d 406, 2004-Ohio-1497, does a protective order issued by a tribunal in discovery constitute an exception from mandatory disclosure of the discovered documents as public records pursuant to the “catch all” exception at R.C. 149.43(A)(1)(v), where the tribunal has not ruled that specific documents are confidential under specific provisions of law?

Both appellants and appellees shall file memoranda addressing the above issues within 20 days of the date of this order. Both parties may then file a response within 10 days of the filing of the initial memoranda. The Clerk of this Court shall refuse to file any requests for or stipulations to an extension of time under Rule XIV(3)(B)(2).

(Board of Tax Appeals; Nos. 2005V1726, 2006V99 and 2006H117)

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THOMAS J. MOYER

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Chief Justice