

IN THE SUPREME COURT OF OHIO

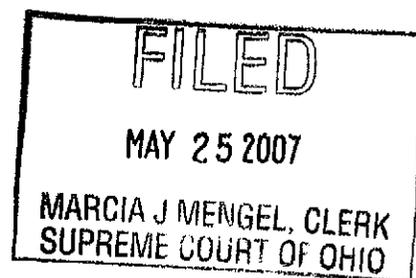
IBM Corporation, :
 :
 Plaintiff-Appellant, : SUPREME COURT CASE NO.: 2007-0076
 :
 -v- : On Appeal from the Franklin County Court of
 : Appeals, Tenth Appellate District
 Board of Revision of Franklin County, :
 Ohio, :
 :
 and :
 :
 Board of Education for the South-Western :
 City School District, :
 :
 Defendants-Appellees. :

JOINT MOTION FOR REFERRAL TO SETTLEMENT CONFERENCE
AND JOINT MOTION FOR A STAY OF THE CASE.

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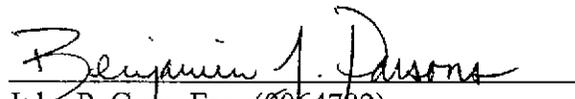
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FOR THE SOUTH-WESTERN CITY SCHOOL DISTRICT

Appellant IBM Corporation and Appellees, the Board of Education of the South-Western City School District and the Franklin County Board of Revision, respectfully move the Court to refer this case to a mediation attorney for a settlement conference pursuant to Rule XIV, Section 6(A) of the Supreme Court Practice Rules. The joint argument in support of the motion has been filed contemporaneously herewith.

Movants also respectfully move the Court to issue an order staying the case pursuant to Rule XIV, Section 6(C) to facilitate the mediation process.

Respectfully submitted,



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-v-	:	On Appeal from the Franklin County Court of
	:	Appeals, Tenth Appellate District
Board of Revision of Franklin County,	:	
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	:	
and	:	
	:	
Board of Education for the South-Western	:	
City School District,	:	
	:	
Defendants-Appellees.	:	

MEMORANDUM IN SUPPORT

Appellant IBM Corporation (hereinafter “IBM”) and Appellees, the Board of Education of the South-Western City School District (hereinafter “South-Western”), and the Franklin County Board of Revision (hereinafter “BOR”) jointly request that the Court refer this matter to a mediation attorney for a settlement conference pursuant to Rule XIV, Section 6(A) of the Supreme Court Practice Rules. In addition the parties request that the Court stay the case pursuant to Rule XIV Section 6(C) of the Supreme Court Practice Rules, suspending the briefing schedule, to allow the mediation process to proceed without the burden and expense of filing the parties’ respective briefs.

Facts Relevant to Mediation

This matter originated in the Franklin County Board of Revision following complaints filed by IBM pertaining to the Franklin County Auditor’s prior valuation of Parcel Numbers 570-223345-80 and 570-223345-90 (the “Real Property”) for tax years 2000, 2001, and 2002. The

Real Property, located at 4499 Fisher Road, Columbus, Franklin County, Ohio 432208, is owned by IBM and located in the South-Western school district.

In 1999, IBM entered into an agreement with Bank One Corporation (“Bank One”) to make certain improvements to the Real Property so that Bank One could use the Real Property as a data processing facility. *See* Transcript of Proceedings of April 1, 2004 BOR Hearing at p. 5. In connection with this agreement, IBM received an “Enterprise Zone” tax abatement from the City of Columbus, whereby the City was to abate 60% of the increase in the value of the Real Property resulting from the contemplated improvements (the “Abatement”). BOR Transcript at p. 5. IBM completed the improvements to the Real Property in 2000; however, Bank One notified IBM in 2002 that it no longer planned to use the Real Property for its facility. BOR Transcript at p. 6. As a result, IBM notified the City of Columbus and terminated the Abatement in 2003. BOR Transcript at p. 6.

On April 29, 2003, the Franklin County Auditor notified IBM by letter that, for tax years 2000, 2001, and 2002, it had mistakenly abated 60% of the *entire* value of the Real Property, rather than 60% of the *increase* in value. As a result, the Auditor assessed IBM an additional \$539,081.20 in the second half of tax year 2002. In response, IBM filed three Complaints Against the Valuation of Real Property challenging the Auditor’s purported valuation of the Real Property for tax years 2000, 2001, and 2002. Counter-Complaints were subsequently filed by South-Western.

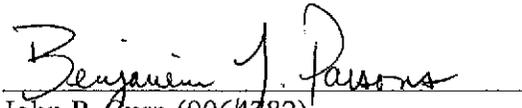
The case is pending before this Court on appeal from the Tenth District Court of Appeals. The parties believe that mediation will assist the parties in reaching consensus regarding the disputed tax obligations that will lead to a settlement. The tax liabilities pertaining to tax abated parcels, subsequent termination of the tax abatement and the tax calculation error by the Franklin

County Auditor have created a complex set of facts. Settlement would be facilitated with the guidance of a Court-appointed mediator who could assist the parties in reaching a consensus on those facts.

CONCLUSION

For the reasons discussed above, this Case should be referred to mediation pursuant to Rule XIV Part 6. Appellant IBM Corporation and Appellees, the Board of Education of the South-Western City School District and the Franklin County Board of Revision respectfully request that this Court refer the case to mediation. Movants also respectfully request that the Court issue an order staying the case pursuant to Rule XIV, Section 6(C) to facilitate the mediation process.

Respectfully submitted,



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Certificate of Service

I hereby certify that a true and accurate copy of the foregoing Joint Motion for Referral to Settlement Conference and Joint Motion for a Stay of the Case has been sent, via U.S. mail, postage prepaid to Mark H. Gillis, Rich Crites & Dittmer LLC, 300 E. Broad Street, Suite 300, Columbus, OH 43215 and Paul M. Stickel, Franklin County Prosecuting Attorney/Tax Division, 373 S. High Street, 17th Floor, Columbus, OH 43215 this 25th day of May, 2007.

J. Curp, by B. Parsons
John P. Curp