

IN THE SUPREME COURT OF OHIO

ORIGINAL

Meijer Stores Limited Partnership, :

Appellant, :

Case No. 2008-1248

v. :

Franklin County Board of Revision, et al, :

Appellees. :

Appeal from the Ohio Board of  
Tax Appeals  
Case No. 2005-T-441 and 443

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**MOTION FOR SANCTIONS OF APPELLEE BOARD OF EDUCATION OF  
THE LICKING HEIGHTS LOCAL SCHOOL DISTRICT**

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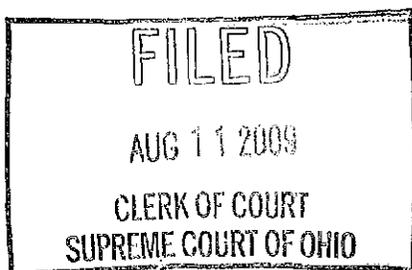
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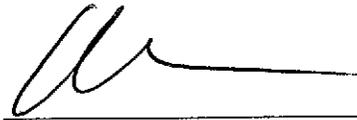
MOTION FOR SANCTIONS OF APPELLEE BOARD OF EDUCATION OF  
THE LICKING HEIGHTS LOCAL SCHOOL DISTRICT

Now comes Appellee Board of Education of the Licking Heights Local School District and moves this Honorable Court for sanctions against Appellant, Meijer Stores Limited Partnership, for filing a frivolous motion for reconsideration pursuant to S. Ct. Prac. XIV, Section 5.

As explained in the attached memorandum in support of this motion, Appellant filed a motion for reconsideration that was completely frivolous and not reasonably well-grounded in fact, was nonsensical in many respects, pretentious, and insulting and contemptuous in tone and language. For instance, Meijer refers to part of this Court's decision as being "absurd" and to another part as "shocking[]," and states that this Court's decision was both "misguided" (Motion, p. 11) and its Opinion was "illogical" (Motion, p. 11); that this Court wrongly rejected the "overwhelming logic" of Meijer's position (Motion, p. 11); and that this Court "adopt[ed] a position so outside mainstream valuation theory so as to be unrecognizable as even a minority position" (Motion, p. 12), and Meijer accuses this Court of acting as an "expert witness," which is utter nonsense. Meijer's Motion simply reargued all of the basic claims set forth in its Merit Brief which were rejected by this Court.

For these reasons, Appellee respectfully moves this Court for sanctions for reasonable attorneys fees for responding to Meijer's frivolous motion for reconsideration and in preparing this motion for sanctions in the sum of \$1,800.

Respectfully submitted,



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MEMORANDUM IN SUPPORT OF MOTION FOR SANCTIONS

Section 5 of Rule XIV of this Court's Rules of Practice provides for sanctions against a party for taking action that was frivolous. Meijer's motion for reconsideration was frivolous in all respects.

Section 2(B) of Rule XI of this Court's Rules of Practice provides that "[a] motion for reconsideration shall be confined strictly to the grounds urged for reconsideration, shall not constitute a reargument of the case \*\*\*." Section 5 (A) of Rule XIV, in part, reads as follows:

"Section 5. Frivolous Actions; Sanctions; Vexatious Litigators.

If the Supreme Court, sua sponte or on motion by a party, determines that an appeal or other action is frivolous \*\*\* it may impose, on the person who signed the appeal or action, a represented party, or both, appropriate sanctions. The sanctions may include an award to the opposing party of reasonable expenses, reasonable attorney fees, costs or double costs, or any other sanction the Supreme Court considers just. An appeal or other action shall be considered frivolous if it is not reasonably well-grounded in fact or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law."

Meijer filed a 15 page motion for reconsideration which is insulting in tone and language and showed a clear disrespect for this Court and for the other parties involved in this appeal. Furthermore, Meijer simply reargued the primary claims made in its Merit Brief. It made the entirely frivolous argument that this Court failed to address all of the issues raised by Meijer in its Merit Brief, when the Court specifically addressed and decided all such issues in its Opinion. It reargued its basic factual or appraisal-related claim that first-generation sales and lease transactions could not be used to value its property, which this Court addressed and decided in paragraphs 17 to 20 of its Opinion, and Meijer failed to present any arguments that were new or that were not previously set forth in its Merit Brief. It also reargued its basic legal claim that these sales and lease transactions could not be used to value its property, which this Court addressed and decided in paragraphs 21 to 23 of its Opinion, and Meijer failed to present any intelligible grounds for claiming that the prior decisions of this Court that are referred to in this paragraphs should be overruled, distinguished, or otherwise disregarded. Meijer also reargued in its entirety its claim that the BTA's value constituted a "value in use" which was rejected by this Court in paragraphs 24 to 26 of its Opinion. Meijer, likewise, failed to present any arguments in its motion for reconsideration in this respect that were "reasonably well-grounded in fact or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law." Finally, Meijer argued that the BTA failed to consider "the necessary issues or fully support its opinion" and that the appeal should have been "remanded" to the BTA. This claim, like the others, was utterly frivolous. Meijer never asked for a remand in its Merit Brief, and Meijer never claimed that the BTA had "failed to consider the necessary issues or fully support its opinion" (except in its motion for reconsideration, of course).

Meijer's motion for reconsideration was not reasonably well grounded in fact or warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law. S. Ct. Prac.R. XIV(5). Furthermore, it appears that Meijer filed its motion solely for purposes of harassment because it had no merit and no purpose other than to punish both this Court and Appellee for what it regarded as actions that would otherwise reduce the profits that it derives from the use of the property in question. Meijer's motion for reconsideration had no merit, whatsoever, and caused the Appellee Board of Education to waste valuable resources in the payment of attorneys' fees in responding to the motion. These are resources the Board of Education should have put to better purposes than responding to a completely frivolous motion for reconsideration.

#### CONCLUSION

For the reasons set forth herein, this Court is respectfully requested to impose sanctions against Meijer for filing a frivolous motion for reconsideration for reasonable attorney fees in the amount of \$1,800.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing motion was served upon Nicholas M.J. Ray, 3001 Bethel Road, Suite 208, Columbus, Ohio, 43220, William J. Stehle, 373 South High Street, 20th Floor, Columbus, Ohio 45215, and Richard Cordray, Ohio Attorney General, 30 East Broad Street, 17th Floor, Columbus, Ohio 43215 by regular U.S. mail, postage prepaid, this 11 day of August, 2009.

  
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Mark H. Gillis