

IN THE SUPREME COURT OF OHIO

JOHN E. KAISER, et al., : Case No. 2012-0630
Appellant, : On Appeal from the Franklin County
v. : Court of Appeals, Tenth Appellate
 : Judicial District.
FRANKLIN COUNTY AUDTOR, et al., : Court of Appeals
Appellees : Case No. 10 AP-909

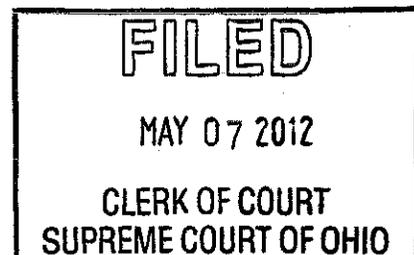
**APPELLEES' FRANKLIN COUNTY BOARD OF REVISION, AND FRANKLIN
COUNTY AUDITOR'S MEMORANDUM CONTRA APPELLANTS' MOTION
TO REFER TO MEDIATION**

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Appellants have moved this Court for mediation. However, because this Court should not accept jurisdiction of this case and because previous extensive mediation and settlement negotiations have proven unsuccessful, and further mediation would be a hopeless cause, the Motion should be denied.

Appellees intend to oppose the Memorandum in Support of Jurisdiction filed by Appellants. However, the time period in which to respond to the Appellants' Memorandum has not expired.

Appellants have cited to cases in which the Court "has found other tax cases to be appropriate cases for referral to mediation." (Appellants' Memorandum in Support of Motion to Refer to Mediation, P. 2). Notably, every case cited is an appeal from the Ohio Board of Tax Appeals. These BTA cases are appeals as of right, jurisdiction is not discretionary. Because the BTA cases are appeals of right, many, if not most of them would not be accepted by this Court if they were discretionary appeals. The BTA cases are, for the most part, fact based. The Appellants' attempt to include their case as a BTA-type case supports a conclusion that it is fact based, not worthy of this Court's attention and is not a case involving a substantial constitutional question and is not one of public or great general interest.

At the various stages of this litigation, including during the pendency of this case on appeal from the Franklin County Board of Revision at the Franklin County Court of Common Pleas and during the proceedings at the Franklin County Court of Appeals, Appellees have spent many hours in informal settlement talks with Appellants. Formal mediation took place at the Franklin County Court of Appeals. All possible means of

settlement have been explored. At this point, more mediation would be wasteful of the Court's and the parties' time and energy.

Therefore, the Appellants' Motion to Refer to Mediation should be denied.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Memo Contra was served upon:

Tyler W. Kahler
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Canton, OH 44735

by regular U.S. mail, postage prepaid, this 7th day of May 2012



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