ORIGINAL

IN THE SUPREME COURT OF OHIO

Teddy L. Wheeler **In his Capacity of Pike County Auditor,**	:	**Case No. 14-1362**
Appellee/Cross-Appellant,	:	**Appeal from the Ohio Board of Tax Appeals**
v.	:	
Joseph W. Testa, **Tax Commissioner of Ohio,**	:	
Appellee,	:	
and	:	
Martin Marietta Energy Systems, Inc. **n/k/a Lockheed Martin** **Energy Systems, Inc.**	:	
Appellant/Cross-Appellee.	:	

FILED
DEC 29 2014
CLERK OF COURT
SUPREME COURT OF OHIO

APPELLEE/CROSS-APPELLANT, TEDDY L. WHEELER'S MOTION FOR ORAL ARGUMENT TO THE SUPREME COURT AND MOTION TO ENLARGE TIME FOR ORAL ARGUMENT

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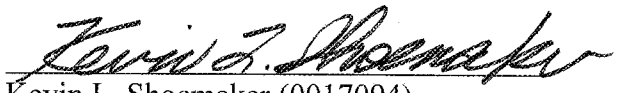
MOTION

Pursuant to S. Ct. Prac. R. 17.05 (B) and17.07 (A), Counsel for Appellee/Cross-Appellant, Teddy L. Wheeler, Appellee/Cross-Appellant, moves this Court to enlarge the time for oral argument and to have this matter referred to the Supreme Court for oral argument. The basis for this motion is set forth in the attached memorandum in support.

Respectfully submitted,

Pike County Prosecuting Attorney
Robert Junk



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MEMORANDUM IN SUPPORT

This case is an appeal and cross-appeal of an Ohio Board of Tax Appeals' ("BTA") decision. This case involves three parties, the taxpayer, Appellant Martin Marietta Energy Systems, Inc. n/k/a Lockheed Martin Energy Systems ("LMES"); the Pike County Auditor, Teddy L. Wheeler ("Auditor"); and the Tax Commissioner. The appeal relates to taxation of personal property located at the Piketon uranium enrichment plant, owned by the federal government and operated by LMES. The appeal presents numerous legal and factual issues. LMES has raised issues contending:

1. that the Auditor acted in bad faith in issuing the assessment for numerous reasons;
2. that LMES is not a taxpayer in this unique set of circumstances;
3. that a statute of limitations precludes the tax assessment; and,
4. that information relied upon in determining the value of the property assessed was not proper.

The Auditor, through his cross-appeal, has raised additional issues contending:

1. that LMES lacks standing, pursuant to R.C. 5717.04, to pursue its appeal;
2. that the statute of limitations in R.C. 5703.58 is not applicable to personal property taxes;
3. that boards of county commissioners do not have the authority to compromise personal property taxes;
4. that, pursuant to R.C. 5711.16, LMES is a manufacturer and is liable for personal property taxes based upon the value of equipment it used but did not own;
5. that the BTA was required to determine the true value of the personal property at issue in this case; and,
6. that the Tax Commissioner has no authority to cancel a personal property tax

assessment pursuant to R.C. 5711.31.

The legal and factual issues outlined above are numerous and varied. Due to the large number of issues presented and the unusual nature of the issues fifteen minutes per side for oral argument time is not sufficient. The Auditor requests that the Court expand the time to thirty minutes for each party.

The issues presented in this case are unique. This case involves the assessment of personal property taxes upon the operator of the Piketon uranium enrichment plant. This plant was one of the largest industrial operations in Ohio. The operation of the plant was unique, in that, the federal government owned the facility but contracted with LMES to operate it. The federal government has also indemnified LMES so that LMES is not ultimately responsible for any taxes or costs of this litigation. For a variety of reasons the operators never filed any personal property tax returns listing any values for taxation. This appeal involves tax year 1993. The 1993 preliminary assessment issued by the Auditor is for $23,244,789.00 in tax, penalty, and interest liability. The varied nature of the legal and factual issues involved support the request that the Supreme Court hear oral argument on this appeal.

The Auditor, therefore, requests that the Court enlarge the time for oral argument to thirty minutes for each party and that the Supreme Court directly hear the oral argument in this case.

Respectfully submitted,

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Certificate of Service

A copy of the foregoing was served by regular U.S. Mail upon the persons listed below on this 22nd day of December, 2014.

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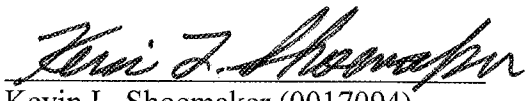

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