**STATE OF VERMONT**
**WASHINGTON COUNTY**

FILED
2007 FEB -8 A 10:20
SUPERIOR COURT
WASHINGTON COUNTY

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| **In re: Washington County Railroad Tax Appeal** | ) | **Washington Superior Court Docket No. 625-10-06 Wncv** |

**ENTRY**
**Motion for Refund of Filing Fees**

This case is an appeal from the assessment of railroad taxes under 32 V.S.A. § 8361. The notice of appeal was filed with the ordinary superior court filing fee, which was expressly paid "under protest." At this point, the parties have resolved the dispute sufficiently for Appellant to seek, in a separate motion, voluntary dismissal without prejudice. Appellant also seeks the refund of the filing fee, claiming that "no filing fee is required for the filing of this appeal by law." Motion for Refund of Filing Fees (filed Dec. 21, 2006).

The general rules regarding filing fees for supreme, superior, district, family, and environmental courts are set out at 32 V.S.A. § 1431. With regard to superior court, the general rule is: "Prior to the entry of *any cause* in the superior court . . . there shall be paid to the clerk of the court for the benefit of the state a fee of $225.00 in lieu of all other fees not otherwise set forth in this section." 32 V.S.A. § 1431(b)(1) (emphasis added).

Ordinarily, exceptions to the general rules in 32 V.S.A. § 1431 are stated with specificity in statutes or procedural rules. The following provisions, for example, specifically eliminate the court filing fee that otherwise would apply: 3 V.S.A. § 809a(b); 3 V.S.A. § 809b(b); 12 V.S.A. § 5133(f); 15 V.S.A. § 1103(f); 15B V.S.A. § 313(a); 17 V.S.A. § 2148(a); 33 V.S.A. § 6933(b). See also V.R.C.P. 3.1 (waiver of filing fee for proceedings in forma pauperis).

The statute under which this appeal has been taken, 32 V.S.A. § 8361, and related statutes do not suggest any exception to the filing fee required under 32 V.S.A. § 1431(b)(1).

Without specific authority for the claim that no fee is required in these circumstances, the court perceives no basis for refunding the fee was required by 32 V.S.A. § 1431(b)(1).

The Motion to Refund Filings Fees is DENIED.

Dated at Montpelier, Vermont this 7th day of February 2007.

Mary Miles Teachout
Mary Miles Teachout
Superior Court Judge