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## SUIT VS. CORPORATE TAX BREAKS UNRESOLVED

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A lawsuit challenging the corporate tax breaks widely used by state and local governments to attract businesses went unresolved yesterday, as the US Supreme Court ruled that the taxpayers who filed the suit did not have legal standing to do so.

The inconclusive decision was a disappointment for Peter D. Enrich, the Northeastern University law professor who argued against the tax incentives and relied on the volunteer work of about 50 students to prepare the case. The argument was a Supreme Court debut for Enrich, who handled the case free of charge and was pitted against former US Solicitor General Theodore B. Olson, who had appeared before the justices more than 40 times.

The ruling sends the case back to the Ohio state courts, where it began six years ago, and does not address its central issue: whether tax breaks for companies that build or expand in Ohio discriminate against out-of-state competitors. A resolution could affect thousands of similar incentive packages used nationwide.

The case questioned the constitutionality of \$280 million in tax incentives used by Ohio in 1998 to persuade DaimlerChrysler Corp. to build a \$1.2 billion auto plant in Toledo rather than in neighboring Michigan. Critics deride such tax breaks as "corporate welfare." Supporters tout them as key tools for spurring economic growth and job creation.

Rather than rule on the substance of the case, the court found that the plaintiffs a group of Toledo taxpayers and several small businesses, and several Michigan residents had not suffered the kind of direct, personal injury that entitles them to a federal court hearing.

"It will not be easy to explain this conclusion to the plaintiffs," said Enrich, noting that several of them had lost their homes and businesses when Toledo used eminent domain to acquire the land for Daimler's new plant.

The plaintiffs originally filed their suit in state court, but the defendants moved it to federal court.

"Frustratingly, the court's ruling sheds no new light on the constitutionality of Ohio's investment tax credit or of the similar tax giveaways around the country that are costing states and localities billions of dollars," Enrich added.

DaimlerChrysler called the ruling "a big win for America because it sends a clear message that states will not be held hostage to lawsuits brought by individuals or groups with no direct connection to the issue at hand."

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