

IN THE SUPREME COURT OF OHIO

STAMMCO, LLC
d/b/a THE POP SHOP, *et al.*

Plaintiffs-Appellees,

vs.

UNITED TELEPHONE COMPANY
OF OHIO, AND SPRINT NEXTEL
CORPORATION

Defendants-Appellants

Case No.: 12-0169

On Appeal From the Fulton County Court of
Appeals, Sixth Appellate District,
Case No. F-11-003

FILED
APR 09 2013
CLERK OF COURT
SUPREME COURT OF OHIO

MOTION TO STRIKE APPELLANTS' NOTICES
OF RECENTLY DECIDED AUTHORITY

On March 12, 2013 and April 2, 2013, the Appellants, United Telephone Company of Ohio and Sprint-Nextel Corporation (collectively "Sprint"), filed notices to recently decided authority. In these notices, Sprint supplied this Court with citations to purportedly relevant authority. *However*, in addition to supplying the Court with the citation to the authority, as permitted under S.Ct.Prac.R. 17.09(B), Sprint also included a description of facets of each case, providing Sprint's analysis of what Sprint regarded as relevant to the issue currently pending before this Court upon consideration. Sprint's conduct runs afoul of S.Ct.Prac.R. 17.09(B) which states that "[if] a relevant authority is issued after oral argument, a party may file a citation to the relevant authority but shall *not file additional argument.*" (Emphasis added).

Additionally, those citations and Sprint's analysis should not be considered, because they were offered by Sprint in support of propositions of law, that were *not accepted* for review by

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this Court. The Court accepted Sprint's appeal on Proposition of Law No. I only. (*Wal-Mart v. Dukes* Rejects *Ojalvo's* Interpretation of *Eisen*: A Trial Court Does Not Abuse Its Discretion By Evaluating The Merits Of The Plaintiffs' Claims When Denying Class Certification). Citations to cases, that do not deal with the merits of these Plaintiffs' claims, are simply not relevant.

Sprint's March 12, 2013 and April 2, 2013 notices of citations should be stricken.

Respectfully submitted,



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CERTIFICATE OF SERVICE

A copy of the foregoing *Motion to Strike Appellants' Notices of Recently Decided*

Authority was forwarded by First-Class mail to the following:

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Attorney for Defendants-Appellants

on this 8th day of April, 2013.



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