

IN THE SUPREME COURT OF THE STATE OF OHIO

WAYNE K. LIPPERMAN, : **Case No. 2015-0121**
: :
: **Appellant,** : **Appeal from the Court of Appeals**
: **for the Seventh Appellate District**
vs. : :
: :
NILE E. BATMAN, et al. : **Court of Appeals**
: **Case No.: 14-BE-2**
Appellees. :

**APPELLANT'S RESPONSE TO THE MOTION OF DEFENDANTS/APPELLEES
XTO ENERGY, INC., AND PHILLIPS EXPLORATION, INC., FOR AN ORDER
DEEMING PROPOSITION OF LAW NO. 3 TO BE MOOT AND SUBJECT TO
DISMISSAL UNDER SUPREME COURT PRACTICE RULE 7.10, AND DISMISSING
THE XTO PARTIES FROM THIS APPEAL**

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This Memorandum is in response to the Motion of XTO and Phillips, pursuant to Rule 4.01 of the Ohio Supreme Court Rules of Practice.

As the Motion of XTO Energy, Inc., and Phillips Exploration, Inc., concedes that Appellant's Proposition of Law No. 3 is valid, rather than dismiss this Proposition of Law, the Court should grant said Proposition. The Court may then decide to proceed with the relief of said Appellees from any other participation in the Appeal. Appellants Lipperman, etc., agree that XTO and Phillips should have no further participation in this Appeal.

This 30th day of July, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **APPELLANT'S RESPONSE TO THE MOTION OF DEFENDANTS/APPELLEES XTO ENERGY, INC., AND PHILLIPS EXPLORATION, INC., FOR AN ORDER DEEMING PROPOSITION OF LAW NO. 3 TO BE MOOT AND SUBJECT TO DISMISSAL UNDER SUPREME COURT PRACTICE RULE 7.10, AND DISMISSING THE XTO PARTIES FROM THIS APPEAL**, was filed by electronic mail with the Court and also served by U.S. mail, this 31st day of July, 2015, upon the following:

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