

ORIGINAL

IN THE SUPREME COURT OF OHIO

Vernon L. Tribett, et al.,	)	
	)	Sup. Ct. Case No. 2014-1966
Plaintiffs-Appellees	)	
	)	On Appeal from the Belmont County
vs.	)	Court of Appeals, Seventh Appellate
	)	District, Case No: 13-BE-22
Barbara Shepherd, et al.,	)	
	)	
Defendants-Appellants	)	
	)	
	)	

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**MOTION TO STRIKE APPELLANTS MOTION FOR CLARIFICATION  
REGARDING *SUA SPONTE* ORDER DATED FEBRUARY 10, 2016  
AND FOR EXPEDITED CONSIDERATION OF THIS MATTER**

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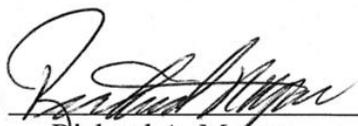
**MOTION**

Appellee, Susan Tribett, moves this Court for an order to strike the Appellants Motion for Clarification Regarding the *Sua Sponte* Order Dated February 10, 2016 pursuant to S. Ct. Prac. R. 3.11(E) and for expedited consideration of this matter pursuant to S. Ct. P. R. 4.01(C).

A memorandum in support of this motion is attached.

Respectfully submitted,

MYSER & DAVIES

By:  \_\_\_\_\_

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Attorney for Plaintiffs-Appellees  
Vernon L. Tribett and Susan M. Tribett

**MEMORANDUM IN SUPPORT**

The Appellees submit to the Court that notwithstanding the Certificate of Service in Appellants' motion, Appellees did not receive notice of the filing of Appellants' Motion for Clarification Regarding the *Sua Sponte* Order dated February 10, 2016 until a cursory examination of the Court docket indicated the filing. Had the Appellees received timely notice they would have filed their Memorandum in Opposition which is attached hereto as Exhibit A.

The Appellees submit that it would be reasonable and just to allow them to file their Memorandum in Opposition and would not in any way be prejudicial to the Appellants.

The Appellees further ask that the Court give immediate consideration to this matter since the briefing schedule in this case has commenced.

Respectfully submitted,

MYSER & DAVIES

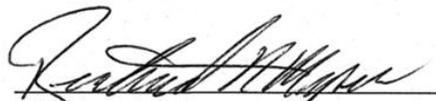
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a photocopy of Appellees Motion to Strike and for Immediate Consideration was served by regular United States mail, first-class postage prepaid, upon

Matthew W. Warnock and Daniel E. Gerken, Bricker & Eckler LLP, 100 South Third Street,  
Columbus, Ohio 43215, attorneys for Defendants-Appellants, this 4<sup>th</sup> day of March, 2016.

  
Richard A. Myser  
Attorney for Plaintiffs-Appellees

**EXHIBIT A**

**IN THE SUPREME COURT OF OHIO**

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Defendants-Appellants	)	
	)	
	)	

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**APPELLEES' MEMORANDUM IN OPPOSITION TO THE MOTION  
OF APPELLANTS FOR CLARIFICATION REGARDING *SUA SPONTE*  
ORDER DATED FEBRUARY 10, 2016**

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*Counsel for Appellees*

## MEMORANDUM IN OPPOSITION

### **I. ARGUMENT**

Appellants have filed their motion with this Court asking the Court to lift its stay of the briefing schedule (see 04-29-15 *Case Announcements*, 2015-Ohio-1591) only as to Propositions of Law Nos. III and VI. Appellees oppose this motion.

Appellants contend that the Propositions of Law Nos. I, II, IV, V and VI are identical to the propositions of law currently pending before this Court in *Walker vs Shondrick-Nau*. Appellees submit that while the issues may be similar they are not identical in all respects and should be considered separately.

Furthermore Appellees did not file Amicus Cauri briefs in the *Walker* case nor the other Dormant Minerals Act cases currently pending before this Court in reliance upon its opportunity to brief and argue these propositions of law before the Court in its own case.

### **II. CONCLUSION**

For the above stated reasons the Appellees respectfully and adamantly oppose the Appellants motion to limit the *sua sponte* stay of the briefing schedule to only Propositions of Law Nos. III and VII and ask that the parties be permitted to brief and argue all seven of the propositions of law the Court accepted jurisdiction over in its Entry dated April 25, 2015.

Respectfully submitted,

MYSER & DAVIES

By: \_\_\_\_\_

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Attorney for Plaintiffs-Appellees  
Vernon L. Tribett and Susan M.  
Tribett

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a photocopy of Appellees Memorandum in Opposition to the Motion of Appellants for Clarification Regarding *Sua Sponte* Order dated February 10, 2016 was served by regular United States mail, first-class postage prepaid, upon Matthew W. Warnock and Daniel E. Gerken, Bricker & Eckler LLP, 100 South Third Street, Columbus, Ohio 43215, attorneys for Defendants-Appellants, this \_\_\_\_\_ day of March, 2016.

\_\_\_\_\_  
Richard A. Myser  
Attorney for Plaintiffs-Appellees