

**HERBERT ET AL., APPELLEES, v. PORTER, APPELLANT, ET AL.**

[Cite as *Herbert v. Porter*, 113 Ohio St.3d 1207, 2007-Ohio-1106.]

*Appeal dismissed as improvidently accepted.*

(No. 2006-0539 — Submitted February 14, 2007 — Decided March 28, 2007.)

APPEAL from the Court of Appeals for Seneca County,

No. 13-05-15, 165 Ohio App.3d 217, 2006-Ohio-355.

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{¶ 1} The cause is dismissed, sua sponte, as having been improvidently accepted.

MOYER, C.J., PFEIFER, LUNDBERG STRATTON, O’CONNOR, O’DONNELL, LANZINGER and GRADY, JJ., concur.

THOMAS J. GRADY, J., of the Second Appellate District, sitting for CUPP, J.

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Bailey Cavalieri, L.L.C., W. Evan Price II, and D. David Carroll; and Supance & Howard, Martin D. Koop, and Brent T. Howard, for appellees.

Roetzel & Andress, L.P.A., Anthony J. Calamunci, Amy L. Butler, and Thomas A. Matuszak, for appellant.

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