Supreme Court of Ohio Clerk of Court - Filed June 03, 2024 - Case No. 2023-0411

NO 23-0411
THE SUPREME COURT OF OHIO

RICE DRILLING D, LLC, *et al.*,
Appellants
v.

TERA, LLC
Appellee

APPEAL FROM THE COURT OF APPEALS
SEVENTH APPELLATE DISTRICT

APPELLEE TERA, LLC'S MOTION TO RECONSIDER

Craig J. Wilson (0090526)
C.J. Wilson Law, LLC
2606 Hilliard Rome Rd., PMB 3007
Hilliard, Ohio 43026
614-723-9050
craig@wilsonlaw.com

Elizabeth L. Glick (0039591)
Law Office of Elizabeth L. Glick
P.O. Box 191
St. Clairsville, Ohio 43950
(740) 695-0532
eglick_tbg@att.net

Richard Myser (0007462)
Myser & Myser
320 Howard Street
Bridgeport, Ohio 43912
740-635-0162
myser@belmontlaw.net

Counsel for Appellee-Plaintiff TERA, LLC

John Kevin West (0091520)
John C. Ferrell (0097727)
Steptoe and Johnson, PLLC
41 South High Street, Suite 2200
Columbus, Ohio 43215
(614) 458-9889
kevin.west@steptoe-johnson.com
john.ferrell@steptoe-johnson.com

Counsel for Appellants-Defendants Gulfport Energy Corporation and Rice Drilling D, LLC

Ragan Naresh
Joseph C. Schroeder
Kirkland & Ellis, LLP
1301 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 389-5000
ragan.naresh@kirkland.com
joseph.schroeder@kirkland.com

Kenneth A. Young
Kirkland & Ellis LLP
609 Main Street
Houston, TX 77002

(713) 836-3600
kenneth.young@kirkland.com

Counsel for Defendant-Appellant Rice Drilling D, LLC

Daniel T. Donovan (0067833)
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 389-5000
daniel.donovan@kirkland.com

Counsel for Defendant-Appellant Gulfport Energy Corporation

Appellee-Plaintiff TERA, LLC, by and through counsel, respectfully moves this Court, pursuant to Supreme Ct. Prac. R. 18.02, for reconsideration of the opinion dated May 23, 2024 that reversed and remanded this case.

The grounds for this motion are that Court did not address arguments in Appellee's Merit Brief and the decision was reached in error. Accordingly, the Court should have affirmed the lower court's rulings on the two propositions of law accepted.

A memorandum in support is attached and incorporated by reference.

Respectfully Submitted,

/s/ Craig J. Wilson

Craig J. Wilson (0090526)
C.J. Wilson Law, LLC
2606 Hilliard Rome Rd., PMB 3007
Hilliard, Ohio 43026
614-723-9050
craig@wilsonlaw.com

Elizabeth L. Glick (0039591)
Law Office of Elizabeth L. Glick
P.O. Box 191

St. Clairsville, Ohio 43950
(740) 695-0532
eglick_tbg@att.net

Richard Myser (0007462)
Myser & Myser
320 Howard Street
Bridgeport, Ohio 43912
740-635-0162
myser@belmontlaw.net

Counsel for Appellee-Plaintiff TERA, LLC

MEMORANDUM IN SUPPORT

I. Introduction and Summary of Argument.

This Court's May 23, 204 slip opinion reversed the lower courts' ruling that the subject oil and gas lease was unambiguous, and the Appellant-Defendants were bad-faith trespassers. *Tera, L.L.C. v. Rice Drilling D, L.L.C.*, Slip Opinion No. 2024-Ohio-1945 ("Order"). Specifically, the Court found the phrase, "the formation[] commonly known as . . . the Utica Shale" to be ambiguous. Order at ¶17. The Court identified two reasons for its holding: (a) the lease does not mention the Point Pleasant Formation, and (b) the lease language does not answer the question whether the parties intended for the Point Pleasant Formation to be considered part of the Utica Shale when the lease was executed. *Id.* at ¶14. The Court's finding was in error for four reasons.

First, the Court's conclusion that the lease language is ambiguous is in error because the Court focuses on what is not included rather than the plain meaning of the text as written. The Court fails to take account of the lease language as a whole, including the closing idea from the grant clause that specifically incorporates the reservation clause

("other than as reserved unto Lessor below") and the first sentence of the latter reservation clause, which states, "Lessor reserves all rights not specifically granted to Lessee in this Lease." As the Court noted, the Point Pleasant Formation is not "expressly mentioned" in the lease. Order at ¶17. Accordingly, the Point Pleasant Formation could not have been "specifically granted" to the lessee if the Point Pleasant Formation was not even mentioned in the lease. Thus, by the express words of the lease, it must have been reserved to the lessor.

Second, the Court fails to apply the specific rules of contract interpretation before reaching its conclusion that the lease is ambiguous. This Court has adopted specific rules of contract interpretation. *Sutton Bank v. Progressive Polymers, L.L.C.*, 161 Ohio St. 3d 387, 391-92, 2020-Ohio-387 (discussing primary and secondary rules of contract interpretation). Here, the Court fails to apply the primary rules, such that words are read with context in mind and technical terms are given their technical meaning. When applied, the only reasonable conclusion to be reached is that the lease unambiguously limited the rights granted to the geological Marcellus and Utica Shale formations (necessarily excluding any other formations, including the Point Pleasant Formation, from the grant).

Third, even if the lease's language was ambiguous, the Court erred by prematurely stopping its analysis without applying secondary rules of contract interpretation that could have resolved the ambiguity the Court identified in lease. Rather than apply those rules, the Court simply assumed that that the lease's ambiguity presented a question of fact for a jury. That is plainly incorrect.

Fourth, and relatedly, a remand is improper as there is no genuine issue of material fact as to the parties' intent for a jury to decide. In particular, the record is complete and undisputed that the parties never intended to include the Point Pleasant Formation in the lease. If the Court had analyzed the underlying record as to the evidence of intent, it would have found there is no genuine issue of material fact for a jury to decide the meaning of the lease.

For these reasons, the Court should reconsider its Order and affirm the lower courts' prior rulings.

II. STANDARD

This court has the authority to grant motions for reconsideration filed under S. Ct. Prac. R. 18.02 in order to "correct decisions which, upon reflection, are deemed to have been made in error." *State ex rel. Huebner v. W. Jefferson Village Council*, 75 Ohio St.3d 381, 383, 662 N.E.2d 339 (1995). Generally, the moving party must demonstrate the existence of "an obvious error or an issue that this court did not consider." *Dublin City Sch. Bd. Of Educ. v. Franklin Cnty Bd. of Revision,* 139 Ohio St. 3d 212, ¶10.

III. ARGUMENT

A. The Court Erred in Finding that the Lease is Ambiguous Because the Lack of Mention of the Point Pleasant Formation in the Lease Means it Was Expressly Reserved to the Lessor.

The Court notes numerous times in its Order that the lease does not "expressly mention the Point Pleasant" as a basis for finding ambiguity. *See, e.g.*, Order at ¶17. It is true that the lease does not mention the Point Pleasant Formation but the conclusion the Court draws from that fact is exactly backwards, because the lease's silence as to Point

Pleasant Formation *necessarily* leads to a conclusion that Point Pleasant Formation was reserved.

To begin its analysis of the lease language, the Court quotes the grant clause and highlights key language therein. However, in the later discussion of the proper interpretation of the lease, the Court omits a significant highlighted section. Importantly, the grant clause concludes by limiting the grant to "other than as reserved unto Lessor below," thereby specifically and unequivocally incorporating the reservation clause. To reemphasize the limited nature of the grant, the first sentence of the reservation clause provides that "Lessor reserves all rights not *specifically granted* to Lessee in this Lease." (emphasis added). "When the language of a written contract is clear, a court may look no further than the writing itself to find the intent of the parties…. As a matter of law, a contract is unambiguous if it can be given a definite legal meaning." *Westfield Ins. Co. v. Galatis*, 100 Ohio St. 3d 216, 219, 2003-Ohio-5849 (citations omitted). By this language, the parties agreed exactly how the contract should be interpretated if an item was not mentioned in the lease.

Thus, when the Court found the Point Pleasant Formation was not specifically mentioned in the lease, the Court should have applied the very language the parties agreed upon and held the Point Pleasant Formation was reserved by the lessor because it was "not specifically granted." *See Alexander v. Buckeye Pipe Line Co.*, 53 Ohio St.2d 241, 246, 374 N.E.2d 146, 150 (1978) ("[W]here the terms in an existing contract are clear and

unambiguous, this court cannot in effect create a new contract by finding an intent not expressed in the clear language employed by the parties.").

B. Applying This Court's Rules of Contract Interpretation Leads To The Inescapable Conclusions That The Utica Shale Formation Did Not Include the Point Pleasant Formation.

The Court also erred in failing to apply previously adopted rules of contract interpretation (Order at ¶17) which, properly applied, require the conclusion that the parties never intended for the lease to cover the Point Pleasant Formation.

> This Court has adopted primary and secondary rules of contract interpretation, including rules addressing the meaning of certain words. This Court summarized the rules just a few years ago. Rules of contract interpretation are tools that we use to give meaning to disputed terms or provisions so that the contract as a whole will reflect the parties' intent. *See Skivolocki v. E. Ohio Gas Co., 38 Ohio St.2d 244, 313 N.E.2d 374 (1974), paragraph one of the syllabus*. These rules can be broken down into two basic categories: primary interpretive rules and secondary interpretive rules. In all cases involving contract interpretation, we start with the primary interpretive rule that courts should give effect to the intentions of the parties as expressed in the language of their written agreement. *See Sunoco, Inc. (R&M) v. Toledo Edison Co., 129 Ohio St.3d 397, 2011-Ohio-2720, 953 N.E.2d 285, ¶ 37*. Other primary interpretive rules assist the court in doing this by giving guidance on how to interpret the meaning of certain words. For example, one rule is that "[c]ommon words appearing in a written instrument will be given their ordinary meaning unless manifest absurdity results, or unless some other meaning is clearly evidenced from the face or overall contents of the instrument." *Alexander v. Buckeye Pipe Line Co., 53 Ohio St.2d 241, 374 N.E.2d 146 (1978), paragraph two of the syllabus*.

Sutton Bank, 161 Ohio St. 3d at 391. "In interpreting a provision in a written contract, the words used should be read in context and given their usual and ordinary meaning." *Carroll Weir Funeral Home v. Miller*, 2 Ohio St. 2d 189, 192, 207 N.E.2d 747, 749 (1965).

"Another more specific, but also at times very helpful, rule is that technical terms are to be given their technical meaning 'unless a different intention is clearly expressed.'"

Sutton Bank, 161 Ohio St. 3d at 391-92, quoting, *Foster Wheeler Enviresponse v. Franklin Cty. Convention Facilities Auth., 78 Ohio St. 3d 353, 361, 1997-Ohio-202, 678 N.E.2d 519 (1997).*

> Rules of interpretation have one purpose: to give meaning to the language of the contract in a way that reflects the intent of the parties. If courts did not use rules of interpretation … [certain contract] provisions could be open to all manner of interpretations, some of which would naturally be incongruous with the parties' actual intent.

Sutton Bank, 171 Ohio St. 3d at 392.

"As a matter of law, a contract is unambiguous if it can be given a definite legal meaning." *Westfield Ins.*, 100 Ohio St.3d at 219 (citations omitted). *See also Sunoco, Inc. (R&M) v. Toledo Edison Co.*, 129 Ohio St. 3d 397, 405, 2011-Ohio-2720 (applying *Alexander* and *Westfield Ins.* to interpret the word "arrangement" by looking at dictionary definitions and the context of the contract).

First, the Court reaches its conclusion that the lease is ambiguous without applying the foregoing rules of interpretation. The Court fails to read the lease as a whole when interpreting what the parties intended by the term "Utica Shale." The Court reads the phrase "formation[] commonly known as … Utica Shale" in the grant clause without reading the same in context with the reservation language, both in the grant clause and the reservation clause. The Court also fails to address the fact that "Utica Shale" is a technical term used in multiple places in the context of a lease directed at the conveyance of rights to specific geological formation or rock units beneath the surface of the Shaw property.

Second, the Court erred in failing to consider an Ohio statute, R.C. 1509.01(GG), that clearly establishes the Point Pleasant, Utica, and Marcellus as separate formations

under Ohio law. As Plaintiff explained in the Response Brief, in 2012, a year before the subject lease was signed, the Ohio Legislature defined the term "horizontal well" in R.C. 1509.01(GG) as follows:

> "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus **formation** and the well is stimulated.

(emphasis added) (eff. 9/10/2012). *See* 07/04/2020 Pl. Resp. p. 9. By this definition, the Legislature clearly establishes the Point Pleasant, Utica, and Marcellus as *separate* formations under Ohio law. Moreover, the state regulatory agency, the Ohio Department of Natural Resources, made clear in 2012 that it considers Utica Shale and Point Pleasant Formation to be entirely separate formations. *See* 10/30/2019 Pl. MSJ, Ex. E.

As the trial court and Seventh District Court of Appeals correctly observed, the parties do not disagree on this point. While the Appellants urge an interpretation of "Utica Shale" that is more malleable, citing industry publications and newspaper articles, they concede that the Point Pleasant Formation is a distinct geological formation from the Utica Shale. Thus, the technical meaning of "Utica Shale" is not in dispute and can be easily applied to the instant situation in the same manner as a dictionary definition of an ordinary word (unless the context implies otherwise). *See Alexander Pipe* and *Foster Wheeler*, *supra*.

Taken together, these facts provided the Court the context needed to answer the question it posed – whether the Point Pleasant was considered part of the formation commonly known as the Utica Shale when the parties entered into the lease. There is no dispute concerning the usage of the terms at issue before and at the time the subject lease

was signed. The word "formation" also supports this understanding. As the dissent notes, the word "formation" has a common meaning within the context of subsurface units and that meaning should be applied.

The Court's failure to consider the words "Utica Shale" according to their commonly understood technical meaning, both in the general context of subsurface leasing and the specific context of their usage throughout the entirety of the instant lease, constitutes a "serious error" warranting reconsideration. This Court has held that undefined terms of a contract are interpreted according to their plain and ordinary meaning unless another meaning is evident from the face or overall content of the contract, or unless the result is manifestly absurd. *Sutton Bank,* 161 Ohio St. 3d at 391 (citation omitted). Similarly, "technical terms are to be given their technical meaning 'unless a different intention is clearly expressed.'" *Id.* More than a century ago, this Court emphasized the importance of applying technical meaning to technical terms in a mineral rights case. *Detlor v. Holland*, 57 Ohio St. 492, 503-4 (Ohio 1898) ('[t]his rule is of especial importance when the question arises whether a specific mineral is included in a general designation.").

Just as this Court looked to context and accepted definitions of terminology in interpreting the word "condemn" in a real estate lease in *Carroll Weir*, the meaning of the word "arrangement" in *Sunoco*, this Court should interpret "Utica Shale" by reference to its technical meaning, which is not contested by the parties. As the term is used throughout the lease, including the third subclause of the reservation clause, it is clear

that the parties' intent was to limit the grant to the stratigraphic Utica Shale, which the parties agree does not include the Point Pleasant Formation.

Moreover, the Court erred when analyzing the omission of the words "Point Pleasant Formation" from the lease to find ambiguity where there was none (when the words in the lease are given their proper meaning). Finding ambiguity when the contract identifies only two of three formations defined under Ohio law is contrary to this Court's precedent. For example, in *Wildcat Drilling L.L.C. v. Discovery Oil & Gas, L.L.C.*, 172 Ohio St. 3d 160, 2023-Ohio-3398, the contract did not include a certain notice provision under common law regarding indemnification for payment of settlement. *Id.* at 166. That court noted the exclusion and applied the doctrine of *expressio unius est exclusio alterius* to find, "had the parties wanted to include a notice provision regarding indemnification for payment of a voluntary settlement, they knew how to do so and would have done so." *Id.* at 166.

Here, the same analysis from *Wildcat Drilling* should apply. The lease includes the Marcellus Shale and the Utica Shale, but does not mention the Point Pleasant Formation. If the parties wanted to include all three formations identified in R.C. 1509.01(GG), they knew how to do so and would have done so.

Third, the Court did not consider that the presentation set forth by the Appellant-Defendants as to "common usage of the term Utica Shale" involved solely industry usage, which Mr. Shaw is not a member. "[A] contract should only be interpreted consistent with a usage of trade if each party knows or has reason to know of the usage and neither party knows or has reason to know that the other party has an intention inconsistent with the

usage." *Dana Partners, L.L.C. v. Koivisto Constructors & Erectors, Inc*., 2012-Ohio-6294, ¶27 (11th Dist. Dec. 31, 2012). Mr. Shaw testified he was not aware that the term Utica Shale was meant to include the Point Pleasant Formation. 02/13/2020 Pl. Supp. Reply, p. 4. As such, if the Court had reviewed the underlying record on this issue, it would have found a lack of relevant evidence to consider.

C. After the Court Found Ambiguity, It Should Have Applied the Secondary Interpretative Rules To Resolve It

The Court found ambiguity in the grant clause because there is more than one reasonable interpretation of the lease but stopped its analysis and failed to apply the secondary interpretative rules. In so doing, the Court stated, "[r]esolving the meaning of ambiguous terms in a contract is a matter of factual determination for the fact-finder." *Id.* at ¶19. This is an incomplete statement of the law.

For decades, this Court has applied rules of construction to aid in "ascertaining the intent of the parties when the language used is ambiguous." *Sutton Bank,* 161 Ohio St. 3d at 391. The secondary rules of contract interpretation do not operate unless the primary rules of interpretation fail to resolve the contract's meaning. *Id.* at 392.

This Court fails to apply several secondary interpretive rules. First, the Court failed to apply the doctrine of *expressio unius est exclusio alterius. Wildcat Drilling L.L.C. v. Discovery Oil & Gas, L.L.C.,* 172 Ohio St. 3d at 166 (describing the doctrine). The lease identifies the Marcellus Shale and the Utica Shale, but it does not mention Point Pleasant Formation. The exclusion of the Point Pleasant Formation implies it was not be conveyed.

Second, the Court did not cross-reference the grant clause phrase "formation[] commonly known as . . . the Utica Shale" to the reservation clause to resolve any

perceived ambiguity. A contractual provision that would be ambiguous if considered alone is not ambiguous if it cross-references another provision within the contract resolving the ambiguity. *Seringetti Const. Co. v. City of Cincinnati*, 51 Ohio App. 3d 1, 553 N.E.2d 1371 (5th Dist.) syllabus 3. Here, the Court finds the grant clause ambiguous but does not analyze the entirety of the grant clause (including its internal reference to the reservation clause) or otherwise cross-reference the reservation clause. The dissenting opinion highlights several key attributes of the reservation clause that resolve the ambiguity of the grant clause.

Third, to the extent there was ambiguity, the lease should have been construed against the lessee. Oil and gas leases generally are construed in favor of the lessor, and strictly as against the lessee. *Motorists Mut. Ins. Co. v. Ironics, Inc.,* 168 Ohio St. 3d 467, 473, 2022-Ohio-841 (2022); *Eclipse Res.-Ohio v. Madzia,* 2016 U.S. Dist. LEXIS 25993, *20 (S.D. Ohio, Mar. 2, 2016) citing Restatement (Second) of Contracts § 206 (1981); *Wohnhas v. Shephard*, 119 N.E.2d 861, 67 Ohio L. Abs. 562 (1954). Moreover, the covenant's clause of the lease dictates this construction when it provides, "[a]ny and all duties and obligations Lessee has are under implied covenants to benefit landowners and covenants under this lease."

Fourth, the doctrine of *ejusdem generis* applies as the reservation clause is more specific and defines the meaning of the grant clause. This doctrine states, "where there are general words preceding words of a more specific description, the general words are restricted by the more particularly descriptive words, for it is a canon of construction that words of particular description, rather than general terms of description, will control,

where both cannot stand together." 10B M.J. *Interpretation and Construction*, §13; *Kay v. The Pennsylvania Rd. Co, et al.*, 156 Ohio St. 503, 103 N.E.2d 751 (1952) at syllabus 3. Here, the reservation clause defines exactly what is meant by the phrase "formation[] commonly known as . . . the Utica Shale." Specifically, the reservation provides that "all formations below the base of the Utica Shale" are reserved.

Here, the Court does not apply any of these secondary rules of contract construction in its analysis. The Court found ambiguity and prematurely stopped its analysis. Each of these secondary rules of interpretation point to the conclusion that the Point Pleasant Formation (and other formations below the Utica Shale) were not leased.

D. There Is No Genuine Issue Of Material Fact As To The Parties' Intent And Remand Is Improper

This Court also erred in finding that the lease's interpretation is a question of fact for the jury to decide. The trial court, in contrast, properly concluded that the oil and gas companies failed to identify an existing issue of material fact for a jury to decide. The trial court did not improperly weigh evidence of intent. Rather, the trial court properly applied the summary judgment standard. "The initial burden is on the moving party to set forth specific facts demonstrating that no issue of material fact exists and the moving party is entitled to judgment as a matter of law." *Dresher v. Burt*, 75 Ohio St.3d 280, 292-293, 1996-Ohio-107, 662 N.E.2d 264 (1996). "If the movant meets this burden, the burden shifts to the nonmoving party to establish that a genuine issue of material fact exists for trial." *Id.* Here, the Court erred by failing to recognize there is no genuine issue of material fact as to the parties' intent.

First, the evidence of the parties' *expressed* intent is uncontroverted. The parties solely discussed leasing the Marcellus Shale and the Utica Shale before the lease was signed. 02/13/2020 Pl. Supp. Reply, p. 4. The parties never discussed the Point Pleasant Formation before the lease was signed. *Id.*

Second, Appellants seek to introduce evidence of Rice's *unexpressed* intent in this regard. After the lease was signed, Rice now argues it had an intent of leasing the Point Pleasant Formation. This Court has long held unexpressed intent is not relevant. *Aultman Hospital Ass'n v. Community Mut. Ins. Co.,* 46 Ohio St. 3d at 54 (the hospitals' unexpressed intention cannot be implied in the contract). Here, the record is undeniable that Rice never communicated to Mr. Shaw its desire to lease the Point Pleasant Formation. 02/13/2020 Pl. Supp. Reply, p. 4. As such, evidence of Rice's intent is irrelevant.

Accordingly, the only evidence in the record of this case regarding intent is uncontroverted and the trial court correctly determined that Appellants failed to present evidence to establish an issue of material fact for a jury to decide. The only relevant evidence is that the parties agree they expressed leasing just the Marcellus Shale and Utica Shale, and they never discussed the Point Pleasant Formation. Under a proper application of the summary judgment standard, the trial court properly found the oil and gas companies failed to identify an issue of material fact.

IV. CONCLUSION

For the reasons set forth above, the Court should reconsider its Order and affirm the lower courts finding that the lease did not convey rights to the Point Pleasant Formation, and Appellants failed to prove innocence.

Respectfully submitted,

/s/ Craig J. Wilson
Craig J. Wilson, Esq.
C.J. Wilson Law, LLC
2606 Hilliard Rome Rd., PMB 3007
Hilliard, Ohio 43026
Telephone: 614-723-9050
E-Mail: craig@wilsonlaw.com

Elizabeth L. Glick, Esq. (0039591)
Law Office of Elizabeth Glick
P.O. Box 191
St. Clairsville, Ohio 43950
Telephone: (740) 695-0532
Fax: (740) 695-8039
E-Mail: eglick_tbg@att.net

Richard Myser, Esq. (0007462)
Myser & Myser
320 Howard Street
Bridgeport, Ohio 43912
Telephone: 740-635-0162
E-Mail: myser@belmontlaw.net

Attorney for Appellee-Plaintiff TERA, LLC

PROOF OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the following parties by email on this 3rd day of June, 2024:

Dallas F. Kratzer III (0099331)
Rebecca Schrote (0101051)
Steptoe & Johnson PLLC
41 S. High St., Ste. 2200
Columbus, OH 43215 614.458.9889
dallas.kratzer@steptoe-johnson.com
rebecca.schrote@steptoe-johnson.com

Counsel for Amicus Curiae American Gas Association

Tony Long (No. 0037784) Ohio Chamber of Commerce 34 S. Third St., Ste. 100
Columbus, OH 43215 614.629.0910
tlong@ohiochamber.com

Counsel for Amicus Curiae Ohio Chamber of Commerce

Daniel T. Donovan, P.C. (0067833)
Kirkland & Ellis LLP

John Kevin West (0091520)
John C. Ferrell (0097727)
Steptoe and Johnson
41 South High Street, Suite 2200
Columbus, Ohio 43215
(614) 458-9889 phone
kevin.west@steptoe-johnson.com
john.ferrell@steptoe-johnson.com

Counsel for Appellants-Defendants Gulfport Energy Corporation and Rice Drilling D, LLC

Ragan Naresh, P.C.
Joseph C. Schroeder
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, N.W.
Washington, DC 20004

1301 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 389-5000
daniel.donovan@kirkland.com

Counsel for Defendant-Appellant Gulfport Energy Corporation

Daniel P. Corcoran (0083512)
Thiesen Brock, L.P.A.
424 Second Street
Marietta, OH 45750
corcoran@theisenbrock.com

Counsel for Amici Curiae Southeastern Ohio Oil and Gas Association

(202) 389-5000
ragan.naresh@kirkland.com
joseph.schroeder@kirkland.com

Kenneth A. Young
Kirkland & Ellis LLP
609 Main Street
Houston, TX 77002
(713) 836-3600
kenneth.young@kirkland.com

Counsel for Defendant-Appellant Rice Drilling D, LLC

Gregory D. Russell (0059718)
Thomas H. Fusonie (0074201)
Christopher A. LaRocco (0093572)
Vorys, Sater, Seymour and Pease, LLP
52 East Gay Street/P.O. Box 1008
Columbus, OH 43216
gdrussell@vorys.com
thfusonie@vorys.com
calarocco@vorys.com

Counsel for Amici Curiae Ohio Oil and Gas Association

/s/ Craig J. Wilson
Craig J. Wilson
Attorney for Plaintiff TERA, LLC