

**CALDWELL ET AL., APPELLANTS AND CROSS-APPELLEES, v. PETERSBURG
STONE COMPANY ET AL., APPELLEES AND CROSS-APPELLANTS.**

**[Cite as *Caldwell v. Petersburg Stone Co.*,
112 Ohio St.3d 1212, 2007-Ohio-150.]**

Appeal dismissed as improvidently accepted.

(No. 2006-0184 — Submitted December 13, 2006 — Decided January 31, 2007.)

APPEAL from the Court of Appeals for Mahoning County,

No. 05 MA 12, 2005-Ohio-6793.

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

{¶ 2} The court orders that the opinion of the court of appeals may not be cited as authority except by the parties inter se.

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

PFEIFER, J., dissents and would reverse the judgment of the court of appeals.

CHARLES R. PETREE, J., of the Tenth Appellate District, was assigned to sit for RESNICK, J., whose term ended on January 1, 2007.

CUPP, J., whose term began on January 2, 2007, did not participate in the consideration or decision of this case.

Schrader, Byrd & Companion, P.L.L.C., Frank X. Duff, and John M. Jurco, for appellants and cross-appellees.

SUPREME COURT OF OHIO

Marshall, Dennehey, Warner, Coleman & Goggin and James P. Hanratty;
and Baker, Dublikar, Beck, Wiley & Matthew and Andrea K. Ziarko, for
appellees and cross-appellants.
