

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
BELMONT COUNTY

LONG POINT ENERGY, LLC,

Plaintiff-Appellant,

v.

GULFPORT ENERGY CORP., ET AL.,

Defendants-Appellees.

OPINION AND JUDGMENT ENTRY **Case No. 26 BE 0007**

Motion to Certify Conflict

BEFORE:

Katelyn Dickey, Carol Ann Robb, Mark A. Hanni, Judges.

JUDGMENT:

Denied.

Atty. Christopher M. Hogan, Hogan Thompson Schuelke LLP, *Atty. Michael J. Shaheen* and *Atty. Diane G. Senakievich*, Shaheen Law Group, *Atty. Timothy B. Pettorini* and *Atty. Jeremy D. Martin*, Roetzel & Andress, LPA, for Plaintiff-Appellant Long Point Energy, LLC and

Atty. Craig J. Wilson, C.J. Wilson Law, LLC, for Defendants-Appellees Michael A. Perkins, Jill E. Perkins, Mitchell G. Perkins, Dedra D. Perkins, Phillip J. Perkins, Jackie M. Perkins and Nancy L. Garrison and

Atty. John Kevin West and *Atty. John C. Ferrell*, Steptoe & Johnson PLLC, for Defendants-Appellees Gulfport Appalachia, LLC and Rice Drilling D, LLC.

Dated: October 23, 2026

PER CURIAM.

{¶1} On September 8, 2026, Appellant, Long Point Energy, LLC (“Long Point”), filed a motion pursuant to App.R. 25 to certify this case to the Supreme Court of Ohio on the basis of a conflict. Long Point asserts this court’s decision in *Long Point Energy, LLC v. Gulfport Energy Corp.*, 2026-Ohio-3343 (7th Dist.) (Hanni, J., dissenting), is in conflict with two decisions of other appellate districts: the Fifth District’s decision in *Artex Minerals LLC v. Foraker*, 2026-Ohio-2732 (5th Dist.), regarding who may challenge an abandonment under Ohio’s Dormant Mineral Act (“DMA”), R.C. 5301.56; and the Eleventh District’s decision in *Grinder v. Schaaf*, 2026-Ohio-312 (11th Dist.), regarding whether a written statement accompanied by a notarial acknowledgment constitutes a valid affidavit under R.C. 2319.02.

{¶2} Long Point appealed from the December 30, 2025 judgment of the Belmont County Court of Common Pleas granting Appellees’, Michael A. Perkins, Jill E. Perkins, Mitchell G. Perkins, Dedra D. Perkins, Phillip J. Perkins, Jackie M. Perkins, and Nancy L. Garrison (the “Perkins”), partial motion for judgment on the pleadings against Long Point and denying Long Point’s motion to strike the Perkins’ reply brief in litigation over ownership of severed oil and gas interests underlying approximately 198 acres owned by the Perkins. Gulfport Appalachia, LLC (“Gulfport”) and Rice Drilling D, LLC (“Rice”) are also Appellees.

{¶3} This oil and gas case involves Long Point’s causes of action for declaratory judgment, quiet title, and tort claims premised on its asserted ownership of a portion of the severed mineral estate previously declared abandoned under the DMA, R.C. 5301.56, along with a challenge to the trial court’s interlocutory management of briefing.

{¶4} On appeal, Long Point argued the trial court erred in granting the Perkins’ partial motion for judgment on the pleadings finding that Long Point has no standing to assert its claims in this case under this court’s decisions in *Cardinal Minerals, LLC v. Miller*, 2024-Ohio-2133 (7th Dist.) (“*Cardinal Minerals I*”); *Cardinal Minerals, LLC v. Miller*, 2024-Ohio-3121 (7th Dist.) (“*Cardinal Minerals II*”); *Cardinal Minerals, LLC v. Blatt*, 2025-Ohio-1159 (7th Dist.) (“*Cardinal Minerals III*”) (collectively the “*Cardinal Cases*”); and *Ohio*

River Resources, LLC v. Westfall, 2025-Ohio-2379 (7th Dist.) (“*Ohio River*”). Long Point also contended the court erred in failing to strike the Perkins’ reply brief or, in the alternative, in failing to grant Long Point leave to file a sur-reply.

{¶5} Finding no reversible error, this court affirmed on August 26, 2026. *Long Point*, 2026-Ohio-3343, at ¶ 4, 60 (7th Dist.). Long Point contends this court’s majority decision conflicts with *Artex*, 2026-Ohio-2732 (5th Dist.) and *Grinder*, 2026-Ohio-312 (11th Dist.) and filed its motion to certify a conflict on September 8, 2026. On September 18, 2026, the Perkins and Gulfport and Rice filed responses in opposition. On September 25, 2026, Long Point filed a reply in support.

{¶6} App.R. 25, “Motion to certify a conflict,” states in part:

(A) A motion to certify a conflict under Article IV, Section 3(B)(4) of the Ohio Constitution shall be made in writing no later than ten days after the clerk has both mailed to the parties the judgment or order of the court that creates a conflict with a judgment or order of another court of appeals and made note on the docket of the mailing, as required by App. R. 30(A). . . . A motion under this rule shall specify the issue proposed for certification and shall cite the judgment or judgments alleged to be in conflict with the judgment of the court in which the motion is filed.

App.R. 25(A).

{¶7} Article IV, Section 3, “Organization and jurisdiction of courts of appeals,” states in part:

Whenever the judges of a court of appeals find that a judgment upon which they have agreed is in conflict with a judgment pronounced upon the same question by any other court of appeals of the state, the judges shall certify the record of the case to the supreme court for review and final determination.

Ohio Const., art. IV, § 3(B)(4).

Hence, the following conditions must be met before and during certification pursuant to Section 3(B)(4), Article IV of the Ohio Constitution:

First, the certifying court must find that its judgment is in conflict with the judgment of a court of appeals of another district and the asserted conflict must be “upon the same question.” Second, the alleged conflict must be on a rule of law – not facts. Third, the journal entry or opinion of the certifying court must clearly set forth that rule of law which the certifying court contends is in conflict with the judgment on the same question by other district courts of appeals. (Emphasis deleted.)

Whitelock v. Gilbane Bldg. Co., 66 Ohio St.3d 594, 613 N.E.2d 1032, (1993), paragraph one of the syllabus. In addition, the issue proposed for certification must be dispositive of the case. *State ex rel. Davet v. Sutula*, 131 Ohio St.3d 220, 2012-Ohio-759, 963 N.E.2d 811, ¶ 2.

“Factual distinctions between cases do not serve as a basis for conflict certification.” *Id.* at 599. In *Whitelock*, the Ohio Supreme Court dismissed the appeal on the grounds that the conflict was improperly certified and urged appellate courts to certify “only those cases where there is a true and actual conflict on a rule of law.” *Id.*

State v. Rice, 2022-Ohio-4176, ¶ 4-5 (7th Dist.).

{¶8} This court decided Long Point’s appeal and filed our judgment on Wednesday, August 26, 2026. *Long Point*, 2026-Ohio-3343 (7th Dist.). The clerk mailed copies of the judgment via regular U.S. mail to all of the parties, attorneys, and trial judge that same date. The clerk also made a note on the docket of the deliveries that same date. Thus, Long Point’s motion to certify a conflict was to be filed no later than Tuesday, September 8, 2026, since Monday, September 7, 2026 was a holiday. Long Point timely filed its motion to certify a conflict on September 8, 2026, within the ten-day timeframe under App.R. 25(A).

{¶9} Long Point cites two judgments alleged to be in conflict with the majority decision of this court. *Id.*; *Artex*, 2026-Ohio-2732 (5th Dist.); *Grinder*, 2026-Ohio-312 (11th Dist.). Long Point raises two issues proposed for certification pursuant to App.R. 25(A):

(1) When a surface-rights owner has purportedly acquired mineral rights through the statutory abandonment process in R.C. 5301.56 (Ohio’s Dormant Mineral Act), who may challenge that abandonment: only the person who held the mineral interest at the time of the attempted abandonment, or also a later owner who acquires that interest from the holder?

(2) Is a written statement by a purported affiant that includes express language that the purported affiant was “first duly sworn according to law” and includes a notarial certificate expressly providing that the purported affiant personally appeared, executed the instrument, and acknowledged that its execution was voluntary a valid affidavit under R.C. 2319.02?

(9/8/2026 Long Point’s Motion to Certify a Conflict, p. 9-10).

{¶10} In *Long Point*, this court affirmed the trial court’s partial motion for judgment on the pleadings, holding that Long Point lacks standing to challenge the abandonment of the severed oil and gas interest at issue (the “Freudiger Interest”). Regarding the issues now raised, this court’s majority opinion stated in relevant part:

The *Cardinal Cases* and *Ohio River* all rest on the same basic premise: if a surface owner invokes the procedures of the DMA and causes a marginal notation to be made on the severance deed, the holder, rather than a third party who attempts to purchase the holder’s interest, must be the one to challenge the validity of the abandonment.

. . .

The same reasoning applies here. . . . [A]s in the *Cardinal Cases* and *Ohio River*, “the record chain of title showed abandonment was complete” before Long Point purported to acquire its interest in 2019. [citation omitted].

Long Point asserts that the timely Claim to Preserve filed by Parr prevents application of the *Cardinal* Cases and *Ohio River*. This is incorrect for three reasons.

First, standing under the DMA is tied to “holder” status. Here, the Claim to Preserve was not filed by a “holder” of the Freudiger Interest as expressly required by the DMA.

. . .

When the Claim to Preserve was filed, Parr was not a record holder nor had he derived any rights to the Freudiger Interest from a record holder. . . . Parr executed the Claim to Preserve in his individual capacity only. . . .

. . .

Second, even if standing were to exist, a claim can still fail if the affidavit is not compliant under the DMA. Here, the Claim to Preserve is not “in the form of an affidavit” as required under R.C. 5301.56(C)(1)(b) and R.C. 5301.52(A)(1).

. . .

Third, the Agreed Judgment Entry in the First Lawsuit, in addition to the marginal notations on the Severance Deeds, reveal that the Freudiger Interest did not exist in the public record which deprives Long Point of standing.

. . .

Here, Long Point is in privity with the defendants in the First Lawsuit because they had identical interests and desired the same outcome. . . .

. . .

Because there was a mutuality of interest between the Freudiger Heirs and the defendants in the First Lawsuit, privity exists with respect to Long Point which prevents re-litigating the same matter already resolved.

Regardless of whether Long Point is bound by the Agreed Judgment Entry under *res judicata*, the fact remains that it attempted to acquire an interest that “did not exist in the public record.” [citation omitted]. Accordingly, the trial court properly found that Long Point lacks standing.

Long Point, 2026-Ohio-3343, at ¶ 29-50 (7th Dist.).

{¶11} Long Point first contends that this court’s standing holding conflicts with the Fifth District’s decision in *Artex*, which held that the right to challenge a purported DMA abandonment extends not only to the holder of the mineral interest at the time of the attempted abandonment but also to a later owner who acquires that interest from the holder. *Artex*, 2026-Ohio-2732, at ¶ 21 (5th Dist.). The Fifth District has certified that same question to the Supreme Court of Ohio. *Artex Minerals LLC v. Foraker*, Ohio Supreme Court Case No. 2026-1128. We acknowledge that our majority decision and *Artex* answer that question differently. A conflict on a rule of law, however, does not warrant certification unless the proposed question is also dispositive of the case. *Davet*, 2012-Ohio-759, at ¶ 2; *Rice*, 2022-Ohio-4176, at ¶ 4-5 (7th Dist.). The first proposed question is not dispositive. Our judgment rests on independent grounds that the standing question does not reach. This court separately held that Long Point is in privity with the defendants in the First Lawsuit and is bound by the recorded Agreed Judgment Entry, which independently establishes that the Freudiger Interest “did not exist in the public record.” *Long Point* at ¶ 43-50. A determination that a subsequent purchaser may challenge a DMA abandonment would leave those independent holdings undisturbed, and the judgment would stand. The first proposed question therefore is not dispositive and certification is improper. *Davet* at ¶ 2.

{¶12} Long Point next contends that this court’s affidavit holding conflicts with the Eleventh District’s decision in *Grinder*, which applied *State ex rel. Maras v. LaRose*, 2022-Ohio-3295, to hold that a “duly sworn” written declaration accompanied by a notarial acknowledgment is a valid affidavit. *Grinder*, 2026-Ohio-312, at ¶ 22, 25 (11th Dist.). We

need not decide whether that decision conflicts with our own because the second proposed question is likewise not dispositive. This court identified the affidavit defect as only one of three independent reasons the Claim to Preserve did not defeat abandonment. *Long Point*, 2026-Ohio-3343, at ¶ 32 (7th Dist.). Independently, this court held that Parr was not a “holder” as the DMA requires and did not execute the instrument on a holder’s behalf. *Id.* at ¶ 33-37. A ruling that the instrument satisfies the affidavit requirement of R.C. 2319.02 would not make Parr a holder, convey mineral rights to him, or supply the representative execution the statute demands; the Claim to Preserve would remain ineffective. The second proposed question therefore would not change the result and is not dispositive. *Davet* at ¶ 2.

{¶13} Upon consideration, we find that neither issue proposed by Long Point is dispositive of this case. *Whitelock*, 66 Ohio St.3d at 599; *Davet* at ¶ 2; *Rice* at ¶ 4-5.

{¶14} For the foregoing reasons, Long Point’s motion to certify a conflict is hereby denied.

JUDGE KATELYN DICKEY

JUDGE CAROL ANN ROBB

JUDGE MARK A. HANNI

NOTICE TO COUNSEL

This document constitutes a final judgment entry.

TO THE CLERK: PLEASE SERVE COPIES OF THIS ORDER TO ALL COUNSEL OF RECORD AND ANY SELF-REPRESENTED PARTIES