

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**

Application for Reconsideration

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 10, 2026, Appellant, Long Point Energy, LLC (“Long Point”), filed an application requesting that this court reconsider our decision in *Long Point Energy, LLC v. Gulfport Energy Corp.*, 2026-Ohio-3343 (7th Dist.) (Hanni, J., dissenting).

{¶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 Ohio Dormant Mineral Act (“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 filed its application for reconsideration on September 10, 2026 contending that this court’s majority decision was

in error and that we should, therefore, reconsider the opinion pursuant to App.R. 26(A). On September 24, 2026, the Perkins and Gulfport and Rice filed responses in opposition.

{¶16} An application for reconsideration must be filed within ten days of an appellate court’s judgment. App.R. 26(A)(1)(a). However, a delayed application for reconsideration pursuant to App.R. 26(A) is permitted if the moving party can establish “extraordinary circumstances.” App.R. 14(B). “Extraordinary circumstances” is defined as “[a] highly unusual set of facts that are not commonly associated with a particular thing or event.” *Black’s Law Dictionary* (12th Ed. 2024).

{¶17} 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 application for reconsideration was to be filed no later than Tuesday, September 8, 2026, since Monday, September 7, 2026 was a holiday. However, Long Point did not file its application for reconsideration until Thursday, September 10, 2026, two days beyond the ten-day timeframe under App.R. 26(A)(1)(a). Long Point fails to establish “extraordinary circumstances.” In addition, we find no obvious error in this court’s majority decision.

App.R. 26, which provides for the filing of an application for reconsideration in this court, includes no guidelines to be used in the determination of whether a decision is to be reconsidered and changed. *Matthews v. Matthews*, 5 Ohio App.3d 140, 143, 450 N.E.2d 278 (10th Dist.1981). The test generally applied is whether the motion for reconsideration calls to the attention of the court an obvious error in its decision or raises an issue for our consideration that was either not at all or was not fully considered by us when it should have been. *Id.* An application for reconsideration is not designed for use in instances where a party simply disagrees with the conclusions reached and the logic used by an appellate court. *State v. Owens*, 112 Ohio App.3d 334, 336, 678 N.E.2d 956 (11th Dist.1996). Rather, App.R. 26 provides a mechanism by which a party may prevent miscarriages of justice that could arise when an appellate court

makes an obvious error or renders an unsupportable decision under the law. *Id.*

D.G. v. M.G.G., 2019-Ohio-1190, ¶ 2 (7th Dist.).

{¶8} In *Long Point*, regarding Long Point’s first and third assignments of error, this court stated the following:

In its first assignment of error, Long Point argues the trial court erred in granting the Perkins’ partial motion for judgment on the pleadings on the question of whether Long Point has standing after purchasing oil and gas interests when an alleged mineral holder filed a timely claim to preserve.

In its third assignment of error, Long Point contends the trial court erred in granting the Perkins’ motion even considering the arguments raised for the first time in the Perkins’ reply on the question of whether Long Point has standing after purchasing oil and gas interests when an alleged mineral holder filed a timely claim to preserve.

Because Long Point’s first and third assignments of error are interrelated, as they both raise the issue of standing, we will consider them together for ease of discussion.

This Court conducts a de novo review of a trial court’s ruling on a Civ.R. 12(C) motion for judgment on the pleadings. *Pelletier v. Mercy Health Youngstown, LLC.*, 2024-Ohio-2131, ¶ 10, 2024 WL 2830779 (7th Dist.), citing *Ahmed v. Sargus*, 2005-Ohio-2382, ¶ 7, 2005 WL 1152471 (7th Dist.). We give no deference to the trial court’s decision and apply the same principles as those used in analyzing a Civ.R. 12(B)(6) motion to dismiss. See *Woods v. Sharkin*, 2022-Ohio-1949, ¶ 29, 192 N.E.3d 1174 (8th Dist.). Thus, we construe the material allegations of the complaint as true with all reasonable inferences taken in favor of the nonmoving party. Dismissal under Civ.R. 12(C) is proper “only if it appears beyond doubt that

the plaintiff can prove no set of facts entitling him or her to relief.” *Maternal Grandmother v. Hamilton Cty. Dept. of Job and Fam. Servs.*, 2021-Ohio-4096, ¶ 13, 167 Ohio St.3d 390, 193 N.E.3d 536, quoting *Reister v. Gardner*, 2020-Ohio-5484, ¶ 17, 164 Ohio St.3d 546, 174 N.E.3d 713.

Stewart v. Gentile, 2025-Ohio-5012, ¶ 22 (7th Dist.).

“[N]either due process nor the rules of civil procedure require the trial court to conduct a hearing on a motion for judgment on the pleadings filed under Civ.R. 12(C). *Meyers v. First Natl. Bank* (1981), 3 Ohio App.3d 209, 444 N.E.2d 412.” *Smith v. O’Daugherty*, 1991 WL 207267, *2 (1st Dist. Oct. 9, 1991).

“[S]tanding is to be determined as of the commencement of suit.” *Fed. Home Loan Mortg. Corp. v. Schwartzwald*, 134 Ohio St.3d 13, 18, 2012-Ohio-5017, 979 N.E.2d 1214, ¶ 24, quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 570-571, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992), fn. 5. “[P]ost-filing events that supply standing that did not exist on filing may be disregarded, denying standing despite a showing of sufficient present injury caused by the challenged acts and capable of judicial redress.” *Schwartzwald* at ¶ 26, quoting 13A Wright, Miller & Cooper, *Federal Practice and Procedure* 9, Section 3531 (2008). Assignment of rights to a lawsuit are void. *See Rancman v. Interim Settlement Funding Corp.*, 99 Ohio St.3d 121, 2003-Ohio-2721, 789 N.E.2d 217, ¶ 11.

Cardinal Minerals I, 2024-Ohio-2133, at ¶ 26 (7th Dist.).

R.C. 5301.56, “Abandonment and preservation of mineral interests,” states in part:

Immediately after the notice of failure to file a mineral interest is recorded, the mineral interest shall vest in the owner of the surface of the lands formerly subject to the interest, and the record of the mineral interest shall cease to be notice to the public of the existence of the mineral interest or of any rights under it. In addition, the record shall not be received as evidence in any court in this state on behalf of the former holder or the former holder's successors or assignees against the owner of the surface of the lands formerly subject to the interest.

R.C. 5301.56(H)(2)(c).

Here, Long Point's complaint expressly alleges it is a subsequent purchaser of record of an abandoned mineral right. Long Point claims the Perkins completed the requirements of the DMA in 2011 and recorded the required notice of failure to file. Long Point alleges there was an Agreed Judgment Entry in the First Lawsuit that completed in 2012 confirming abandonment of the Freudiger Interest. Long Point claims it acquired the Freudiger Interest in 2019. Like in *Ohio River*, the face of the complaint demonstrates Long Point lacks standing.

In granting the Perkins' partial motion for judgment on the pleadings, the trial court properly relied on the *Cardinal* Cases and *Ohio River* to find that Long Point lacks standing to assert its claims in this case. 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 *Cardinal* Cases all involved alleged defects in the surface owner's notice to the holders. *Cardinal Minerals I*, 2024-Ohio-2133, at ¶ 32 (7th Dist.); *Cardinal Minerals II*, 2024-Ohio-3121, at ¶ 8 (7th Dist.); *Cardinal*

Minerals III, 2025-Ohio-1159, at ¶ 9 (7th Dist.). In *Ohio River*, the plaintiff argued that the rule from the *Cardinal* Cases is limited to matters where defective notice is alleged. *Ohio River*, 2025-Ohio-2379, at ¶ 53 (7th Dist.). The plaintiff attempted to distinguish the *Cardinal* Cases by asserting that the notice and affidavit of abandonment were facially defective because they included the incorrect volume and page number for the mineral interest. *Id.* at ¶ 54. This court rejected that argument holding that “[a]ny alleged deficiencies with the surface owner’s compliance with the abandonment process, like here, must be challenged in court.” *Id.* at ¶ 64. Because the marginal notation of abandonment was placed on the severance deed before the plaintiff purported to acquire its interest, this court held that the plaintiff “lack[ed] standing to challenge the abandonment process.” *Id.* at ¶ 66.

The same reasoning applies here. On August 29, 2011, the Perkins’ counsel filed a letter with the Recorder requesting marginal notations on the Severance Deeds pursuant to the DMA. See (4/26/2023 Complaint, Exhibit S). The Severance Deeds contain the requested marginal notations. See (4/26/2023 Complaint, Exhibits B, C). Thus, as 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. *Ohio River* at ¶ 66.

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.

Under the DMA, a claim to preserve may be “filed for record by [the] holder” of the mineral interest. R.C. 5301.56(C)(1). The “holder” is “the

record holder of a mineral interest, and any person who derives the person's rights from, or has a common source with, the record holder and whose claim does not indicate, expressly or by clear implication, that it is adverse to the interest of the record holder." R.C. 5301.56(A)(1).

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. The Freudiger Interest was purportedly conveyed to Remora, LLC, Willow Point, and L.D. Jenkins by quit claim deeds. Parr executed the Claim to Preserve in his individual capacity only. Although Parr is identified in the body of the document as the President of Willow Point, the signature line does not reveal that Parr signed the instrument as a representative of Willow Point. The acknowledgment is identified as an "Individual Acknowledgment" rather than a corporate acknowledgment and it is not in the statutory form of a corporate acknowledgement. See R.C. 147.55(B) (corporate acknowledgment includes statement that the officer is signing "on behalf of the corporation").

Long Point offers no justification for these deficiencies. Long Point instead relies on *Miller v. Rice Drilling D LLC*, 2023-Ohio-3588 (7th Dist.) arguing that a claim to preserve may be filed by a party who turns out not to be a holder. In *Miller*, this court found that R.C. 5301.52 does not require the claim to preserve to be filed by an undisputed holder. *Miller* at ¶ 114. However, this court specifically limited its holding to the "unique facts" of that case. *Id.* at ¶ 94 ("Based on the unique facts here, we disagree, but limit our holding to the facts of this case.") In *Miller*, the Stillion heirs filed their claim to preserve timely and in response to notice served upon them by certified mail identifying them as persons who may own an interest. *Id.* at ¶ 111. The notice by publication also identified them as persons who may own an interest. *Id.* Because the Stillion heirs were specifically notified by the surface owners that they were holders, this court concluded that their

claim to preserve was valid even if they did not actually own an interest in the minerals. *Id.* at ¶ 114.

Unlike *Miller*, in the case at bar, the Perkins served the DMA Notice to “Bertha E. Freudiger, her unknown heirs, devisees, executors, administrators, relicts, next of kin, and assigns.” (4/26/2023 Complaint, Exhibit Q). The Perkins did not identify Parr as a potential holder of the Freudiger Interest. Also, in discussing the claim to preserve in *Miller*, this court did not apply the definition of “holder” from the DMA. R.C. 5301.56(E) requires the surface owner to serve notice by certified mail to the “holder” of the intent to declare the mineral interest abandoned, or, if service cannot be completed to any holder, then such intent is to be published in a newspaper. R.C. 5301.56(H)(1) then shifts the burden onto a holder, or its successor, to file a claim to preserve within 60 days of service or publication. In stating that the claim to preserve in *Miller* need not be filed by an actual owner of the mineral interest, this court focused on the requirements of R.C. 5301.52. *Miller* at ¶ 114 (“There is no requirement in R.C. 5301.52 that the claim to preserve be filed by an undisputed and actual holder. Instead, the statute requires the claim be filed by one who attests to their ownership of an interest in the property under oath.”) The fact remains that the DMA requires a claim to preserve to be filed by the “holder,” which does not include someone who merely claims to own an interest. See R.C. 5301.56(A)(1) and (H)(1). Thus, Long Point’s reliance on *Miller* is misplaced. *Miller*, which was limited to its “unique facts,” does not apply here.

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).

Under the DMA, a “claim to preserve a mineral interest from being deemed abandoned” must contain a notice that “complies with section

5301.52 of the [Ohio] Revised Code.” R.C. 5301.56(C)(1)(b) (effective June 30, 2006). Under R.C. 5301.52, a notice must “[b]e in the form of an affidavit[.]” R.C. 5301.52(A)(1). “An affidavit is a written declaration under oath, made without notice to the adverse party.” R.C. 2319.02.

Ohio has “never recognized any exception” to the statutory requirement that an affidavit be made “under oath.” *Toledo Bar Assn. v. Neller*, 2004-Ohio-2895, ¶ 21. In addition, the Supreme Court of Ohio has held that a mere “acknowledgment” in an instrument otherwise styled as an “affidavit” is insufficient to constitute an affidavit. *State ex rel. Evergreen Co. v. Bd. of Elections of Franklin Cty.*, 48 Ohio St.2d 29, 31-32 (1976).

Like *Evergreen*, the Claim to Preserve in this case is styled as an “Affidavit” and states in the first line that the “Affiant” was “first duly sworn according to law.” (4/26/2023 Complaint, Exhibit R). However, the notary public’s certificate is a mere “Individual Acknowledgment,” stating that Parr “personally appeared,” “executed” the instrument, and “acknowledged” that its execution was voluntary. (*Id.* at p. 13). Under *Evergreen*, this is insufficient to constitute an affidavit.

Long Point cites to *State ex rel. Maras v. LaRose*, 2022-Ohio-3295, asserting that the Claim to Preserve qualifies as an affidavit for purposes of the DMA. However, Long Point’s reliance on *Maras* is misplaced because *Maras* applied a later statutory framework. Long Point analyzes the Claim to Preserve under the lens of a new statute, as viewed by the court in *Maras*, rather than the law at the time the Claim to Preserve was executed. At the relevant time, Ohio courts strictly enforced the oath requirement. Thus, because the Claim to Preserve was not “in the form of an affidavit,” it is defective under the DMA.

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.

Ohio River aptly summarized the underlying principle of the *Cardinal* Cases: “Because Cardinal had accepted transfers of interests which *did not exist in the public record*, it did not acquire an interest and could not constitute a holder as that term is defined.” (Emphasis added). *Ohio River*, 2025-Ohio-2379, at ¶ 65 (7th Dist.). In addition, Long Point faces another hurdle to its standing, i.e., a recorded judgment entry from the First Lawsuit declaring the Freudiger Interest abandoned. In the Agreed Judgment Entry, which was recorded on August 10, 2012, [seven] years before Long Point purportedly acquired its interest, the trial court stated:

1. The reservations of certain oil and gas rights by Bertha E. Freudiger, her heirs and assigns, recorded in Volume 368, Page 338 and in Volume 368, Page 380 of the Deed Records of Belmont County, Ohio are, and have been, abandoned by virtue of operation of the Ohio Dormant Minerals Act, Revised Code Section 5301.56, both in its present version (as amended June 30, 2006) and as this section of law existed prior to June 30, 2006 (enacted March 22, 1989);

2. Plaintiffs are the fee simple owners of both the surface and the oil and gas rights in and to the Real Property described in Paragraph 1 of Plaintiffs’ Complaint and in the attached Exhibit A.

(3/18/2024 Perkins’ Objections, Answer, Affirmative Defenses, Counterclaim, and Crossclaim, Exhibit 12, 8/10/2012 Agreed Judgment Entry, p. 2).

Thus, in addition to the abandonment documents under the DMA, the Agreed Judgment Entry publicly establishes that the Freudiger Interest was abandoned and vested in the Perkins seven years before Long Point

attempted to acquire the same. Here, like in *Ohio River*, Long Point's argument regarding the Claim to Preserve is irrelevant and does not establish standing. Even if the Claim to Preserve was valid, once this Agreed Judgment Entry was recorded, the Freudiger Interest "did not exist in the public record" and, therefore, Long Point could not acquire it. *Ohio River* at ¶ 65. Long Point attempts to reframe this issue under res judicata.

Res judicata bars subsequent actions on the same claims between the same parties or those in privity with them. *Brown v. Dayton*, 89 Ohio St.3d 245, 247 (2000). "[M]utuality of interest, including an identity of desired result, creates privity." *Id.* at 248. To hold otherwise would subject a successful litigant to "constant attack simply by replenishing the ranks of plaintiffs." *Id.*

Long Point claims that it cannot be bound by the Agreed Judgment Entry because it was not a party to the First Lawsuit and did not sign the entry. This is not true. Long Point can be found to be bound if "the parties to the subsequent suit [are] the same or in privity with the parties to the original suit." *O'Nesti v. DeBartolo Realty Corp.*, 2007-Ohio-1102, ¶ 9. Long Point also claims that the Freudiger Heirs (from whom it purportedly acquired its interest) were not parties to the Agreed Judgment Entry and, therefore, are not bound by it. However, the Freudiger Heirs (from whom Long Point ultimately obtained its deeds) shared a mutuality of interest and desired the same result as the parties to the Agreed Judgment Entry.

Here, Long Point is in privity with the defendants in the First Lawsuit because they had identical interests and desired the same outcome. The defendants in the First Lawsuit argued the DMA did not abandon the Freudiger Interest. Long Point and the defendants in the First Lawsuit derived their interest in the Freudiger Interest from a common source, i.e., the Freudiger Heirs. The complaint in the First Lawsuit alleged the Freudiger Interest was abandoned by the DMA and that Parr's affidavit was a nullity to prevent abandonment. The defendants in the First Lawsuit were

defending the validity of the Freudiger Interest and the Claim to Preserve. This is the same argument made in this case and they share the same desired outcome. The federal district court recently confirmed there was privity between Long Point and the defendants in the First Lawsuit when it held the *Rooker-Feldman* doctrine applied. See *Long Point*, 2023 WL 2652378, * 7 (S.D. Ohio Mar. 27, 2023). This finding is also supported by the idea that the First Lawsuit was an in rem action. *Id.* at * 8.

The fact that the Agreed Judgment Entry was entered by consent of the parties does not limit its preclusive effect on the parties and those in privity with them. See *Evans v. Evans*, 1999 WL 741168, * 2 (12th Dist. Sept. 20, 1999). 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.” *Ohio River*, 2025-Ohio-2379 at ¶ 65 (7th Dist.). Accordingly, the trial court properly found that Long Point lacks standing.

Lastly, any new additional arguments raised by Long Point, including public record ambiguity, champerty and maintenance, and no right to withdraw or rescind the Claim to Preserve, were not argued or addressed by the trial court and, therefore, are not properly before this court. See *Omran v. Lucas*, 2021-Ohio-4592, ¶ 48 (7th Dist.).

Long Point’s first and third assignments of error are without merit.

Long Point, 2026-Ohio-3343, at ¶ 23-52 (7th Dist.).

{¶9} In *Long Point*, regarding Long Point’s second assignment of error, this court stated the following:

In its second assignment of error, Long Point asserts the trial court erred in denying its motion to strike or, alternatively, to file a sur-reply.

“A trial court’s decision to grant or deny a motion to strike is within its sound discretion and will not be overturned on appeal unless the trial court abuses its discretion.” *Roth v. Fitch, Kendall, Cecil, Robinson & Barry Co., LPA*, 2024-Ohio-2559, ¶ 83 (7th Dist.), quoting *Douglass v. Salem Community Hosp.*, 2003-Ohio-4006, ¶ 20 (7th Dist.). An abuse of discretion occurs when a court exercises its judgment “in an unwarranted way, in regard to a matter over which it has discretionary authority.” *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35.

Long Point’s motion to strike the Perkins’ reply brief was nothing more than an attempt to file a second response brief. Long Point raised certain arguments in its response to the Perkins’ motion for judgment on the pleadings that the Perkins simply rebutted in their reply.

In its response, Long Point argued it had standing alleging the abandonment was facially defective and it was not bound by the Agreed Judgment Entry. Long Point asserted the filing of the Claim to Preserve safeguarded the Freudiger Interest for all mineral holders under R.C. 5301.56(C)(2) and there could not have been any abandonment of the same. Long Point claimed the *Cardinal* Cases do not apply as there was no claim to preserve filed in those cases. Long Point also raised, out of an abundance of caution, that it has standing despite the First Lawsuit because its predecessors-in-title were not made parties to that litigation.

The Perkins directly addressed Long Point’s arguments in their reply. The Perkins argued the preservation claim that Long Point raised in its response was withdrawn and rescinded in the Agreed Judgment Entry in the First Lawsuit so it could not be a source of standing. The Perkins asserted that the Agreed Judgment Entry publicly confirms there was abandonment of the Freudiger Interest prior to Long Point’s purported

acquisition of the same. The Perkins also argued the Claim to Preserve that Long Point was relying upon did not comply with R.C. 5301.56 requirements, and thus had no legal effect to prevent abandonment. Lastly, the Perkins addressed Long Point's argument that it is not bound by the First Lawsuit because of res judicata and privity.

The purpose of a reply is to rebut arguments raised in a response. *See Pond v. E and E Towing and Recovery, LLC*, 2024-Ohio-800, ¶ 13 (10th Dist.). In discussing the Claim to Preserve and the Agreed Judgment Entry, the Perkins simply countered arguments made by Long Point in its response to their motion. Thus, the trial court did not abuse its discretion in denying Long Point's motion to strike or, alternatively, to file a sur-reply.

Long Point's second assignment of error is without merit.

Long Point, 2026-Ohio-3343, at ¶ 53-59 (7th Dist.).

{¶10} In its application for reconsideration, Long Point takes issue with the following “nine respects” from this court's decision: (1) “The majority opinion attributes to the federal district court a privity holding that court did not make” (contained in assignments of error one and three); (2) “The privity holding applies a test that the opinion's own authorities reject and does not address this Court's holding in *Miller* – the ground on which the dissent rested” (contained in assignments of error one and three); (3) “The majority opinion attributes to Long Point allegations that not only are not in Long Point's Complaint, but are also contradicted by Long Point's allegations” (contained in assignments of error one and three); (4) “The sole stated ground for declining to follow *Maras* is demonstrably incorrect, and the Court did not address *Grinder* or the Last-Decision Rule” (contained in assignments of error one and three); (5) “The findings that Parr acted in his ‘individual capacity only’ and ‘had [not] derived any rights’ are contradicted by the Complaint and its Exhibit R” (contained in assignments of error one and three); (6) “The majority's distinction of *Miller* cannot be squared with the DMA” (contained in assignments of error one and three); (7) “The marginal notation expressly references the recorded claim to preserve” (contained in assignments of error one and three); (8) “The majority opinion does not address R.C. 5301.56(C)(2), *Dodd*, *Jefferis*, or

Miller’s all-holders holding” (contained in assignments of error one, two, and three); and (9) “The waiver holding cannot be reconciled with the record – or with the opinion’s own resolution of the second assignment of error” (contained in assignments of error one, two, and three). (9/10/2026 Long Point’s Application for Reconsideration, p. 1-2, 5, 7, 9-13).

{¶11} Contrary to Long Point’s assertions, the record establishes this court did not make any obvious errors or render a decision that is not supported by the law. This court thoroughly and properly addressed each of Long Point’s assignments of error raised on appeal, as evidenced from our majority decision.

{¶12} Ohio appellate courts must decide each properly raised assignment of error and give reasons in writing but are not required to discuss every subsidiary argument an appellant makes or every case an appellant cites. App.R. 12(A)(1) sets out what an appellate court must do on an undismissed appeal:

(A) Determination.

(1) On an undismissed appeal from a trial court, a court of appeals shall do all of the following:

(a) Review and affirm, modify, or reverse the judgment or final order appealed;

(b) Determine the appeal on its merits on the assignments of error set forth in the briefs under App.R. 16, the record on appeal under App.R. 9, and, unless waived, the oral argument under App.R. 21;

(c) Unless an assignment of error is made moot by a ruling on another assignment of error, decide each assignment of error and give reasons in writing for its decision.

App.R. 12(A)(1)(a)-(c).

{¶13} The Supreme Court of Ohio has confirmed that “an appeals court must address each assignment of error that is properly raised.” *In re Palmer*, 12 Ohio St.3d 194, 197 (1984). Critically, this duty attaches to the assignments of error — the discrete grounds for reversal framed under App.R. 16 — not to every argument or authority

marshaled in support of them. The obligation is to decide each assignment and give reasons, not to author freestanding analysis addressing each point. Appellate courts should consider, but need not discuss and address, every argument or citation presented. *See Apple Ohio, LLC v. Rose Italian Kitchen Solon, LLC*, 2023-Ohio-2880, ¶ 9, fn. 2 (8th Dist.).

{¶14} This court considered every argument and citation presented by the parties on appeal. This court also addressed, decided, and gave reasons regarding each assignment of error raised by Long Point.

{¶15} Regarding Long Point’s “nine respects” advanced in its application for reconsideration, considered individually and together, they do not identify an obvious error or an issue this court failed to consider.

{¶16} First, Long Point contends the majority opinion misattributes to the federal district court a holding that there was privity between Long Point and the defendants in the First Lawsuit. To remove any doubt, this court clarifies that its disposition does not rest on the federal court’s *Rooker-Feldman* ruling. That ruling addressed the federal court’s own subject-matter jurisdiction, dismissed the affected claims for lack of jurisdiction, and considered privity between Long Point and the Freudiger Heirs from whom Long Point derived its interest. *Long Point Energy, LLC v. Gulfport Energy Corp.*, 2023 WL 2652378 (S.D. Ohio Mar. 27, 2023), *rev’d and remanded*, *Long Point Energy, LLC v. Gulfport Energy Corp.*, 2025 WL 76249 (6th Cir. Jan. 10, 2025). A determination of federal jurisdiction under *Rooker-Feldman* is not an adjudication of privity under Ohio law, and this court neither requires nor relies upon it as such. Because standing is defeated by the recorded state of the title, as addressed, any characterization of the federal decision is not necessary to the judgment and affords no basis for reconsideration.

{¶17} Second, Long Point contends the privity analysis applies a test its own authorities reject and does not address this court’s holding in *Miller*, 2023-Ohio-3588 (7th Dist.), that a judgment in a different case does not bind non-parties. Privity is not necessary to the disposition. Because Long Point lacks standing on the independent ground that it acquired an interest that did not exist in the record chain of title, this court need not decide whether Long Point is bound under principles of res judicata and privity, nor whether the Agreed Judgment Entry would bind a non-party under *Miller*. *Id.* Ohio

law recognizes that a mutuality of interest, including an identity of desired result, may support privity, *Brown*, 89 Ohio St.3d at 248, subject to the limitation that mutuality exists only where the party invoking the judgment would have been bound had the result been opposite. *O’Nesti*, 2007-Ohio-1102, at ¶ 9. However, resolving that question is unnecessary because the recorded title defeats standing regardless of preclusion.

{¶18} Third, Long Point contends the majority opinion mischaracterizes its complaint as alleging that abandonment was completed, when the complaint alleges the opposite. Even accepting, as review of a Civ.R. 12(C) motion requires, that Long Point alleged the abandonment was ineffective and that its predecessor’s Claim to Preserve prevented abandonment, those allegations bear on the merits of the abandonment and do not answer the antecedent question of standing. Legal conclusions in a pleading that are contradicted by the recorded instruments the complaint incorporates are not entitled to a presumption of truth, and no allegation about the efficacy of the abandonment can supply the standing that the recorded chain of title withholds from a subsequent purchaser. See, e.g., *Ohio River*, 2025-Ohio-2379 (7th Dist.). The characterization Long Point challenges is therefore not an error that affects the disposition.

{¶19} Fourth, Long Point contends the majority opinion incorrectly declined to follow *Maras*, 2022-Ohio-3295, in evaluating the Claim to Preserve as an affidavit, and did not address *Grinder v. Schaaf*, 2026-Ohio-312 (11th Dist.) or the rule that appellate courts follow the Supreme Court’s most recent decision when its cases conflict. Whether the Claim to Preserve satisfied the affidavit requirement of R.C. 5301.52 goes to whether that instrument defeated the abandonment — again, a merits question. Because a subsequent purchaser lacks standing to litigate the validity of the abandonment, this court need not resolve the tension between *Maras* and *Evergreen*, 48 Ohio St.2d 29 (1976), or the last-decision principle applied in *Grinder*, to dispose of the application. The affidavit question is not outcome-determinative given the standing bar and reconsideration does not lie to re-litigate it.

{¶20} Fifth, Long Point contends the findings that Parr acted in his individual capacity only and had derived no rights are contradicted by the complaint and its Exhibit R and could not be resolved on a Civ.R. 12(C) record. Parr’s capacity and whether Willow Point derived rights from the record holder bear on whether the Claim to Preserve was

filed by a “holder” and thus whether it defeated the abandonment. See R.C. 5301.56(A)(1) and (H)(1). Those are merits questions subsumed within the abandonment inquiry that a subsequent purchaser lacks standing to pursue. The standing holding does not depend on resolving Parr’s capacity, and the contention therefore does not establish an obvious error requiring a different result.

{¶21} Sixth, Long Point contends the majority opinion’s distinction of *Miller* cannot be squared with the DMA because the Perkins’ notice ran to the Freudiger Heirs’ “assigns” and Willow Point is a recited assignee. *Miller* expressly limited its holding to the unique facts there presented — a claim to preserve filed by heirs whom the surface owners had themselves identified and served by certified mail as persons who might hold an interest — and this court distinguished those facts. See *Miller*, 2023-Ohio-3588, at ¶ 94 (7th Dist.). A holding confined to its facts does not control a materially different record, and whether Willow Point falls within a class described in a published notice is, once more, a merits question concerning the efficacy of the Claim to Preserve, not a source of standing for a later purchaser. Long Point’s disagreement with the distinction is not an obvious error.

{¶22} Seventh, Long Point contends the marginal notation expressly referenced the recorded Claim to Preserve and therefore did not show a completed abandonment. A notation reciting that an interest was abandoned subject to the interest, if any, that may have been preserved by the Claim to Preserve, directs a title examiner to a recorded instrument; it does not confer upon a subsequent purchaser standing to litigate whether that instrument was effective. In any event, the recorded Agreed Judgment Entry independently established that the Freudiger Interest had been abandoned and had vested in the surface owners before Long Point’s acquisition. The notation does not create standing that the record otherwise forecloses and its treatment in the majority opinion was not an obvious error.

{¶23} Eighth, Long Point contends the majority opinion does not address R.C. 5301.56(C)(2), *Dodd v. Croskey*, 2015-Ohio-2362, *Jefferis Real Estate Oil & Gas Holdings, LLC v. Schaffner Law Offices, L.P.A.*, 2018-Ohio-3733 (7th Dist.), or *Miller*’s holding that a claim to preserve filed by one holder preserves the rights of all holders. The all-holders rule presupposes a valid claim to preserve, filed by a holder, that defeated

the surface owner's attempted abandonment. See *Miller*, 2023-Ohio-3588, at ¶ 99, 117 (7th Dist.). It is therefore an aspect of the merits of the abandonment and, like Long Point's other merits contentions, it does not supply standing to a purchaser who acquired an interest already abandoned of record. This court noted the argument and the resolution would not alter the standing disposition. Such treatment was neither an obvious error nor a failure to consider a dispositive issue.

{¶24} Ninth, Long Point contends the waiver determination cannot be reconciled with the record or with the majority opinion's resolution of the second assignment of error, and asks in the alternative that this court correct that portion of the opinion. The additional arguments to which the determination refers — that there is no right to withdraw or rescind the Claim to Preserve and that the public record is ambiguous — were not the basis of the trial court's judgment and, more fundamentally, are not necessary to the disposition. Because standing fails on the independent ground that the interest did not exist in the record chain of title when Long Point acquired it, neither argument, however resolved, would change the outcome. Declining to reach an argument that could not alter the result is not an obvious error and does not work a miscarriage of justice, and this court declines the request to modify that portion of the opinion.

{¶25} Upon consideration of the App.R. 26(A) application filed in the present matter, it is apparent that Long Point has not demonstrated any obvious errors or raised any issues that were not adequately addressed in our previous opinion. This court thoroughly and properly addressed each of Long Point's assignments of error raised on appeal, as evidenced from our majority decision. This court is not persuaded that we erred as a matter of law.

{¶26} An application for reconsideration is not designed to be used in situations wherein a party simply disagrees with the logic employed or the conclusions reached by an appellate court. *Owens*, 112 Ohio App.3d at 336. App.R. 26(A) is meant to provide a mechanism by which a party may prevent a miscarriage of justice that could arise when an appellate court makes an obvious error or renders a decision that is not supported by the law. *Id.* Long Point has made no such demonstration.

{¶27} For the foregoing reasons, Long Point's application for reconsideration 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**