

IN THE SUPREME COURT OF OHIO

Sunoco Pipeline L.P.	:	
	:	Case No. 2016-1486
Plaintiff-Appellee,	:	
	:	On Appeal from the Harrison County
vs.	:	Court of Appeals, Seventh Appellate
	:	District
Carol A. Teter, Trustee, et al.	:	
	:	Court of Appeals Case Nos.
Defendant-Appellants, et al.	:	16 HA 0002 and 16 HA 0005
	:	

**APPELLANT’S RESPONSE TO APPELLEE’S MOTION TO STRIKE
PORTIONS OF APPELLANT’S MEMORANDUM IN OPPOSITION
TO APPELLEE’S SUGGESTION OF MOOTNESS AND MOTION TO DISMISS**

Nicholas I. Andersen (0077732)
(COUNSEL OF RECORD)
Eric R. McLoughlin (0082167)
Jessica L. Sohner (0089232)
ARENSTEIN & ANDERSEN CO., LPA
6740 Avery Muirfield Dr., Ste B
Dublin, OH 43017
P: (614) 602-6550
F: (866) 309-0892
nick@aacolpa.com
eric@aacolpa.com
jessica@aacolpa.com
*Counsel for Defendant-Appellant,
Carol A. Teter, Trustee
of the Carol A. Teter
Revocable Living Trust*

Kathleen M. Trafford (0021753)
(COUNSEL OF RECORD)
Ryan P. Sherman (0075081)
L. Bradfield Hughes (0070997)
Christopher J. Baronzzi (0078109)
PORTER WRIGHT MORRIS & ARTHUR LLP
41 S. High St.
Columbus, OH 43215
P: (614) 227-2000
F: (614) 227-2100
ktrafford@porterwright.com
rsherman@porterwright.com
bhughes@porterwright.com
cbaronzzi@porterwright.com
*Counsel for Plaintiff-Appellee,
Sunoco Pipeline, L.P.*

(Additional counsel appear on following page)

Jordan S. Berman (0093075)
(COUNSEL OF RECORD)
Assistant Attorney General
Constitutional Offices Section
30 E. Broad St., 16th Fl.
Columbus, OH 43215
P: (614) 466-2872
F: (614) 728-7592
jordan.berman@ohioattorneygeneral.gov
*Counsel for Ohio Attorney General,
Mike DeWine*

Chad A. Endsley (0080648)
(COUNSEL OF RECORD)
Leah F. Curtis (0086257)
Amy M. Milam (0082375)
Ohio Farm Bureau Federation, Inc.
280 N. High St., 6th Floor
P.O. Box 182383
Columbus, OH 43218
T: (614) 246-8258
F: (614) 246-8656
cendsley@ofbf.org
lcurtis@ofbf.org
amilam@ofbf.org
*Counsel for Ohio Farm Bureau Federation, Inc.
and Harrison County Farm Bureau, Inc.,
Amici Curiae in Support of Appellant*

C. Craig Woods (0010732)
(COUNSEL OF RECORD)
Andrew H. King (0092539)
SQUIRE PATTON BOOGS (US) LLP
2000 Huntington Center
41 S. High St.
Columbus, OH 43215
P: (614) 365-2700
F: (614) 265-2499
craig.woods@squirepb.com
andrew.king@squirepb.com
*Counsel for Defendant-Appellee, Enterprise
TE Products Pipeline Company, LLC*

James B. Hadden (0059315)
(COUNSEL OF RECORD)
Murray Murphy Moul + Basil LLP
1114 Dublin Rd.
Columbus, OH 43215
T: (614) 488-0400
hadden@mmmb.com
*Counsel for Association of Oil Pipe Lines,
American Petroleum Institute, and
Ohio Chemistry Technology Council,
Amici Curiae in Support of Appellee*

RESPONSE

The reason Teter argued that this appeal is not moot in its Memorandum in Opposition to Sunoco's Suggestion of Mootness and Motion to Dismiss was because Teter has always suspected that Sunoco would not follow through with its contractual obligations in the confidential settlement agreement, which is nothing more than a simple contract that has not been reduced to a court order. When Sunoco filed its Suggestion of Mootness and Motion to Dismiss without mentioning the settlement agreement, Teter became even more concerned about Sunoco's motives with regards to the terms of the settlement agreement. Additionally, Teter was concerned that the confidentiality provision in Section 5 of the settlement agreement, which only applies to Teter, prohibited it from even mentioning the existence of the settlement agreement.

However, now that Sunoco has represented to this court its intent to follow through with the promises it made in the settlement agreement, Teter feels it is extremely unlikely that Sunoco would attempt to breach the agreement by crossing its farm. Accordingly, Teter respectfully withdraws its argument that the case is not moot.

The court should note that a material inducement for Teter to enter in to the settlement agreement is the provision in Section 4 that expressly provides that Teter "may continue to advocate all issues, claims and defenses it has asserted in its Supreme Court Appeal, and none of the agreements between the Parties herein will be construed as a waiver or release of the issues, claims, and defenses [Teter] has raised on appeal." Accordingly, Teter reiterates that this case presents a debatable constitutional question of great public interest that is capable of repetition, yet evading review, as argued in Section III(B) of its Memorandum in Opposition. Accordingly, Teter respectfully requests this court to deny Sunoco's Suggestion of Mootness and Motion to Dismiss and to proceed to hear this appeal for the benefit of all of Ohio's landowners who will

undoubtedly be threatened with eminent domain by Sunoco and other similar pipeline companies if this court does not reverse the erroneous decision of the court of appeals that found that the finished product natural gas liquids propane and butane are “petroleum” for purposes of R.C. Chapter 1723.

Respectfully submitted,

ARENSTEIN & ANDERSEN CO., LPA

/s/Nicholas I. Andersen
Nicholas I. Andersen (0077732)
(COUNSEL OF RECORD)
Eric R. McLoughlin (0082167)
Jessica L. Sohner (0089232)
6740 Avery Muirfield Dr., Ste B
Dublin, OH 43017
P: 614-602-6550
F: 866-309-0892
nick@aacolpa.com
eric@aacolpa.com
Jessica@aacolpa.com
*Counsel for Defendant-Appellant,
Carol A. Teter, Trustee of the Carol A.
Teter Revocable Living Trust*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the forgoing document was served upon the following by email on August 16, 2017.

Kathleen M. Trafford
(COUNSEL OF RECORD)
Ryan P. Sherman
L. Bradfield Hughes
Christopher J. Baronzzi
PORTER WRIGHT MORRIS & ARTHUR LLP
41 S. High St.
Columbus, OH 43215
ktrafford@porterwright.com
rsherman@porterwright.com
bhughes@porterwright.com
cbaronzzi@porterwright.com
Counsel for Plaintiff-Appellee, Sunoco Pipeline, L.P.

Jordan S. Berman
(COUNSEL OF RECORD)
Assistant Attorney General
Constitutional Offices Section
30 E. Broad St., 16th Fl.
Columbus, OH 43215
jordan.berman@ohioattorneygeneral.gov
*Counsel for Ohio Attorney General,
Mike DeWine*

C. Craig Woods
(COUNSEL OF RECORD)
Andrew H. King
SQUIRE PATTON BOOGS (US) LLP
2000 Huntington Center
41 S. High St.
Columbus, OH 43215
craig.woods@squirepb.com
andrew.king@squirepb.com
*Counsel for Defendant-Appellee, Enterprise
TE Products Pipeline Company, LLC*

Chad A. Endsley
(COUNSEL OF RECORD)
Leah F. Curtis
Amy M. Milam
Ohio Farm Bureau Federation, Inc.
280 N. High St., 6th Floor
P.O. Box 182383
Columbus, OH 43218
cendsley@ofbf.org
lcurtis@ofbf.org
amilam@ofbf.org
*Counsel for Ohio Farm Bureau Federation, Inc.
and Harrison County Farm Bureau, Inc.,
Amici Curiae in Support of Appellant*

James B. Hadden
(COUNSEL OF RECORD)
Murray Murphy Moul + Basil LLP
1114 Dublin Rd.
Columbus, OH 43215
hadden@mmb.com
*Counsel for Association of Oil Pipe Lines,
American Petroleum Institute, and
Ohio Chemistry Technology Council,
Amici Curiae in Support of Appellee*

/s/Nicholas I. Andersen
Nicholas I. Andersen (0077732)
(COUNSEL OF RECORD)
Eric R. McLoughlin (0082167)
Jessica L. Sohner (0089232)