

CV14-427 & CV15-227

in the
ARKANSAS SUPREME COURT

NATHANIEL SMITH, MD, MPH, et al.

Appellants

v.

M. KENDALL WRIGHT, et al.

Appellees

**APPELLEES' MOTION TO WITHDRAW THEIR
FEBRUARY 17, 2015 RESPONSE TO PER CURIAM, 2015 Ark. 38
AND TO DISMISS CV15-227 AS MOOT**

Appellees withdraw their response to the Court's February 5, 2015 per curiam, 2015 Ark. 38, requesting briefs on which justices should decide this case.

Appellees believe that the Justices that presently constitute the Court should decide the case and watch the video of the oral argument even though two did not participate. *Oregon Natural Resources Council, Inc. v. Grossarth*, 979 F.2d 1377, 1377 n.* (9th Cir. 1992) (judge not on original panel listed or audio of argument); *SEC v. Texas Gulf Sulphur Co.*, 446 F.2d 1301, 1310 (2d Cir. 1971) (whether en banc court needs to have reargument or listen or original panel argument recording is a matter of discretion).

Thus, further oral argument is unnecessary.

Therefore, CV15-227 becomes moot and should be dismissed.

This case was expedited for submission on October 23, 2014, and submitted November 20, 2014. This case should not be delayed any longer.

Respectfully submitted,

/s/ Cheryl Maples
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CERTIFICATE OF SERVICE

I certify that I served a copy of this pleading by email on the following on April 8, 2015:

Colin R. Jorgensen
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CERTIFICATE OF COMPLIANCE

I have submitted and served on opposing counsel an unredacted and, if required, a redacted PDF document that complies with the Rules of the Supreme Court and the Court of Appeals. The PDF documents are identical to the corresponding parts of the paper documents from which they were created as filed with the court. To the best of my knowledge, information, and belief, the documents were not scanned and were converted directly from word processing files to PDF free of computer virus, and scanned by Norton. A copy of this certification has been submitted with the paper copies filed with the court and has been served on all opposing parties on April 8, 2015.

/s/ Cheryl Maples
Cheryl Maples