

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

**XTO ENERGY, INC.**

**PLAINTIFF**

**v.**

**No. 4:10-cv-173-DPM**

**CHARLES PRATT and  
TOMMY N. PRATT**

**DEFENDANTS**

**ORDER**

After two extensions, Tommy Pratt has failed to respond to XTO's motion for summary judgment. The material facts are undisputed: Charles gave Tommy (his brother) \$40,000.00 of the duplicative mineral lease payment; the lowest amount in Tommy's bank account from inception to service of process in this case was \$35,298.92; and after service, Tommy was on notice of the duplicative nature of the payment. For the reasons given in the Court's earlier order, *Document No. 30*, Tommy has been unjustly enriched too. XTO is entitled, at the minimum, to judgment against him for \$35,298.92. XTO has waived its right to recover the difference between that amount and the \$40,000.00 Tommy got—perhaps because it would rather not fuss about notice, or be troubled about collecting against something other than Tommy's

liquid assets; and XTO already has Charles on the hook for the entire \$80,000.00.

Motion, *Document No. 32*, granted. Judgment will be joint and several against Charles and Tommy for \$35,298.92.

So Ordered.



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D.P. Marshall Jr.  
United States District Judge

3 Nov. 2011