

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

THE ANTIOCH COMPANY  
LITIGATION TRUST,

Plaintiff,

vs.

LEE MORGAN, *et al.*,

Defendants.

Case No. 3:10-cv-156

Judge Timothy S. Black

**ORDER GRANTING DEFENDANT NORTHROP'S  
MOTION TO DISMISS (Doc. 104)**

This civil action is before the Court on Defendant Northrop's motion to dismiss (Doc. 104) and Plaintiff's memorandum contra (Doc. 107).<sup>1</sup>

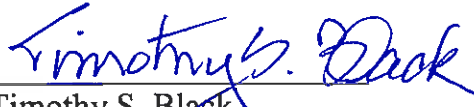
Defendant seeks dismissal of Count Seven for aiding and abetting breach of fiduciary duty. In its Order granting Defendants' motion for reconsideration (Doc. 71), the Court ruled that the opinion of the Ohio Supreme Court in *DeVries Dairy, LLC v. White Eagle Coop. Ass'n*, 974 N.E.2d 1194 (Ohio 2012), invalidated a cause of action for aiding and abetting breach of fiduciary duty under Ohio law. That ruling applies to the cause of action asserted against Defendant Northrop in Count Seven.

Accordingly, Defendant Northrop's motion to dismiss Count Seven for aiding and abetting breach of fiduciary duty (Doc. 104) is **GRANTED**.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

3/5/13

  
\_\_\_\_\_  
Timothy S. Black  
United States District Judge

<sup>1</sup> While Plaintiff opposes the motion, it acknowledges that this Court has previously held that Ohio law does not recognize a cause of action for aiding and abetting breach of fiduciary duty and absent a reconsideration of the Order, the Court's previous ruling applies to Mr. Northrop. (Doc. 107 at 1-2).