

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

CONNIE JEAN SMITH, individually and on)	
behalf of all others similarly situated,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:14-cv-435-BRW
)	
SEECO, INC., n/k/a SWN PRODUCTION)	
(ARKANSAS), LLC; DESOTO)	
GATHERING COMPANY, LLC;)	
SOUTHWESTERN ENERGY SERVICES)	
COMPANY, LLC; and SOUTHWESTERN)	
ENERGY COMPANY,)	
)	
Defendants.)	

DEFENDANTS’ SECOND MOTION FOR PARTIAL SUMMARY JUDGMENT

Defendants’ Second Motion for Partial Summary Judgment seeks a ruling on a central legal point under Plaintiff’s oil and gas lease. The lease states that SWN Production may deduct, before paying royalties, “all *reasonable* gathering, transportation, treatment, compression, processing and marketing costs that are incurred by Lessee in connection with the sale of such gas.” The Court has rejected Plaintiff’s unsupported position that SWN Production did not “incur” costs for DeSoto’s gathering and compression services and held that “SEECO incurred costs under the meaning of the lease.” Dkt. #111 at 4.

Equally unsupported is Plaintiff’s argument that SWN Production is prohibited from deducting post-production costs incurred to the extent such

amounts exceed defendant DeSoto's "cost of service." As with the "incurred" issue, Plaintiff's position has no basis in the text of the lease, which allows SWN Production to deduct *its* costs and which makes no distinction between costs incurred to affiliate versus non-affiliates.

Accordingly, Defendants seek a ruling on one issue that will greatly focus our trial: that under the lease and Arkansas law, SWN Production is not prohibited from deducting that portion of its incurred costs that represents a rate of return, if any, that DeSoto included in its charges. Defendants also seek all other relief to which they are entitled.

Respectfully submitted,

By: /s/R. Paul Yetter

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CERTIFICATE OF SERVICE

I certify that, on January 4, 2016, this brief was filed electronically through the Court's CM/ECF system and served on Plaintiff by transmission of the Notice of Electronic Filing through the Court's CM/ECF system to Plaintiff's counsel of record.

/s/R. Paul Yetter
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