IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
_____ DIVISION

CONNIE JEAN SMITH, individually and on behalf of all others similarly situated, Plaintiff, v. SEECO, INC., n/k/a SWN PRODUCTION (ARKANSAS), INC.; DESOTO GATHERING COMPANY, L.L.C.; SOUTHWESTERN ENERGY SERVICES COMPANY; and SOUTHWESTERN ENERGY COMPANY, Defendants.	Civil Action No. 4:14cv435 BRW **COMPLAINT - CLASS ACTION** **JURY TRIAL DEMANDED**

COMPLAINT – CLASS ACTION

Plaintiff, Connie Jean Smith (**"Smith"** or **"Plaintiff"**), individually and on behalf of all others similarly situated, brings this class action against Defendants SEECO, Inc., n/k/a SWN Production (Arkansas), Inc. (**"SEECO"** or **"SEECO, Inc."**), DeSoto Gathering Company, L.L.C. (**"DeSoto Gathering"**), Southwestern Energy Services Company (**"SES"**) and Southwestern Energy Company (**"SWN"**). The following allegations are based on personal knowledge as to Plaintiff's own conduct and are made on information and belief as to all other matters based on an investigation by counsel.[1]

This case assigned to District Judge Wilson
and to Magistrate Judge Volpe

I. INTRODUCTION

1. Since at least January 2006, Defendants have engaged in an unlawful and deceptive scheme to improperly deprive Plaintiff and other royalty owners of millions of dollars in royalty payments. Defendants executed their scheme by deducting inflated, unreasonable, and/or fictitious (*i.e.,* not incurred) costs from amounts owed to royalty owners. Additionally, Defendants took

[1] All emphases herein are added.

certain quantities of gas without paying for it. Plaintiff brings this class action lawsuit on behalf of herself and all others similarly situated to recover for the injuries that Plaintiff and other royalty owners sustained as a result of Defendants' illegal conduct.

II. PARTIES

A. Defendants

2. SWN is Delaware corporation with its headquarters in Houston, Texas. SWN's operations are focused on, among other things, the development of onshore conventional and unconventional natural gas in various formations in the United States, including the Fayetteville Shale formation in Arkansas. SWN can be served through its registered agent, The Corporation Company, at 124 West Capital Ave., Ste. 1900, Little Rock, Arkansas, 72201.

3. SEECO, DeSoto Gathering and SES are wholly-owned subsidiaries of SWN.

4. SEECO is a Texas corporation with its headquarters in Houston, Texas. SEECO owns interests in oil, gas and other minerals in lands and wells located in Arkansas that are subject to associated oil and gas leases relevant to the allegations herein. SEECO can be served through its registered agent, The Corporation Company, at 124 West Capital Ave., Ste. 1900, Little Rock, Arkansas, 72201.

5. DeSoto Gathering is a Texas limited liability company with its headquarters in Houston, Texas. DeSoto Gathering owns and/or operates a gathering system in the Fayetteville Shale in Arkansas. DeSoto Gathering can be served through its registered agent, The Corporation Company, at 124 West Capital Ave., Ste. 1900, Little Rock, Arkansas, 72201.

6. SES is a Texas corporation with its headquarters in Houston, Texas. SES purchases, markets and transports gas produced by SEECO and gathered by DeSoto Gathering in

the Fayetteville Shale in Arkansas. SES can be served through its registered agent, The Corporation Company, at 124 West Capital Ave., Ste. 1900, Little Rock, Arkansas, 72201.

B. Plaintiff

7. Plaintiff owns oil, gas and other mineral interests in lands and wells located in Conway County, Arkansas where SEECO is the operator or where SEECO, as a non-operating working interest owner, takes its gas in-kind from the wells and gathers it through DeSoto Gathering and sells it to SES.

8. Plaintiff is a resident of Davidson County, Tennessee and a citizen of the State of Tennessee.

9. The Class Members, as defined in paragraph 48 below, are citizens of various states, excluding the State of Arkansas, and own oil, gas and other mineral interests in lands and wells located in Arkansas that are subject to associated oil and gas leases relevant to the allegations herein.

III. JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2) because: (1) the amount in controversy exceeds $5,000,000.00, exclusive of interest and costs, and (2) this is a class action in which at least one member of the class is a citizen of a state different from any defendant.

11. This Court has both specific and general jurisdiction over Defendants. Defendants engage in continuous and systematic activities within the State of Arkansas.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391. Specifically, as provided by 28 U.S.C. § 1391(c), each Defendant is a corporation that is deemed to reside in this

District. Further, a substantial part of the events and omissions giving rise to the claims alleged herein occurred in this District.

IV. FACTUAL ALLEGATIONS

A. Natural Gas Production and Delivery

13. SWN conducts substantially all of its business through subsidiaries. SWN conducts its exploration and production operations primarily through wholly-owned subsidiaries, including SEECO. SEECO operates exclusively in Arkansas, where it holds a large base of developed and undeveloped natural gas reserves, and conducts substantial drilling operations in Fayetteville Shale.

14. SEECO finds and brings natural gas to the surface through exploration and production activities in the Fayetteville Shale under leases with Plaintiff and the Class Members that allow SEECO to explore, drill, produce, and market hydrocarbons from the leased premises. SEECO either acts as operator of the Class Wells or is a non-operating working interest owner taking its (and Class Members') gas in-kind from the Class Wells.

15. Natural gas produced by operators such as SEECO can be moved from wells to the market through a series of pipelines, including gathering lines or systems. From a well, gas goes into a gathering line that converges with gathering lines from other wells. These gathering lines are part of a gathering system and are typically like branches on a tree, getting larger as they get closer to a central collection point, processing facilities and/or an interconnection with a larger intrastate or interstate transmission pipeline. DeSoto Gathering is the owner and/or operator of such a gathering system.

16. A gathering system may need one or more compressors, which may use gas from the gathering lines for fuel, to move the gas through the gathering system. Some gathering systems

include processing or treating facilities, which perform functions such as removing impurities like carbon dioxide (CO_2) or sulfur, so that the gas meets interstate pipelines' specifications.

17. From a gathering system, gas is typically moved into an intra- or interstate transmission system consisting of large diameter pipes which typically transport gas from producing regions to local distribution companies across the United States.

B. Defendants Conspire to Artificially Inflate Deductions Charged to Plaintiff and the Class.

18. In an effort to maximize their profits, Defendants hatched and executed a fraudulent scheme, design, plan and pattern of unlawful activity designed to deprive Plaintiff and the Class Members of the full royalties they are or were entitled to receive. These fraudulent actions were done, in part, by way of incestuous, non-arms-length contracts orchestrated by SWN.

19. In addition to its exploration, development and production activities conducted through SEECO, SWN is also focused on creating and capturing additional value through its natural gas gathering and marketing business, which it refers to as midstream services. SWN engages in natural gas gathering activities in Arkansas through its subsidiary DeSoto Gathering. DeSoto Gathering primarily supports SWN's exploration, development and production activities and generates revenue from fees associated with the gathering of natural gas.

20. DeSoto Gathering owns and/or operates a gathering system in the Fayetteville Shale through which DeSoto Gathering gathers and compresses the gas to move the gas from the wellhead to the interstate pipeline. All of the Class Wells, as defined in paragraph 48 below, are connected to the gathering system operated by DeSoto Gathering.

21. The gas from each Class Well SEECO operates is gathered, compressed and moved to the interstate pipeline under a single contract dated in 2006 between SEECO and DeSoto Gathering (**"Gathering Agreement"**). In the Class Wells where SEECO is a non-operating

working interest owner, SEECO takes its (and Class Members') gas in-kind and DeSoto Gathering gathers, compresses and moves such gas to the interstate pipeline under the same Gathering Agreement.

22. SWN's natural gas marketing subsidiary, SES, captures downstream opportunities that arise through the marketing and transportation of the gas produced in SWN's exploration, development and production activities.

23. All of SEECO's gas produced from the Class Wells, whether operated by SEECO or not, is sold to SES under a single contract also dated in 2006 between SEECO and SES (the **"Sales Contract"**). SES, in turn, sells all the gas to third parties on one of the interstate pipelines and remits the proceeds to SEECO based on a weighted average sales price (**"WASP"**) calculated by SES.

24. These contracts evidence an agreement between Defendants to create a system in which they fraudulently sell their services to each other, setting up a system of self-dealing to ultimately benefit Defendants by minimizing royalty payments to Plaintiff and the Class. Defendants in this conspiracy engaged in unlawful conduct to improperly underpay millions of dollars in royalties owed to Plaintiff and other royalty owners by deducting inflated, unreasonable, and/or fictitious (*i.e.,* not incurred) costs from amounts owed to royalty owners.

1. *The Gathering Fee*

25. Pursuant to the Gathering Agreement, SEECO agreed to pay DeSoto Gathering a "postage-stamp rate" Gathering Fee on an $/Mcf basis.[2] The Gathering Fee is charged to SEECO on all wells connected to DeSoto Gathering's system.

[2] Mcf is an abbreviation denoting a thousand cubic feet of natural gas.

26. The Gathering Fee is not "cost-of-service" based, but was instead marked-up to provide additional revenue and a profit and/or return on invested capital to DeSoto Gathering, and ultimately SWN. SEECO paid Gathering Fees to DeSoto Gathering that greatly exceeded DeSoto Gathering's actual costs. SEECO has, in turn, passed these inflated fees along to Plaintiff and the Class by deducting them from royalty payments. These deductions were inflated, improper, completely unrelated to the actual cost-of-service, did not enhance the marketability of the gas, and instead, merely served to enrich the co-conspirators who devised the scheme.

2. *The Treatment Fee*

27. SEECO also agreed in the Gathering Agreement to pay DeSoto Gathering a "postage-stamp rate" Treatment Fee on a $/Mcf basis. The Treatment Fee is charged to SEECO on wells which produce gas containing a concentration of CO_2 above 2%, as measured at or near the wellhead. SEECO, in turn, passed the Treatment Fees along to Plaintiff and the Class by deducting them from royalty payments. However, no "treatment" is being performed by DeSoto Gathering.

28. Under the Gathering Agreement, treatment refers to the process necessary to reduce the concentration of CO_2 in the gas stream below 2% to meet interstate pipeline specifications. DeSoto Gathering has the ability to reduce the concentration of CO_2 in one of two ways: (1) blending, which is the ordinary process of gas having a high CO_2 content commingling with gas that has a low CO_2 content; and (2) amine treatment, which involves amine units, where gas is run through amine liquids that absorb the CO_2 or H_2S.

29. Blending is not a separate treatment process that would justify the fixed Treatment Fee to be deducted from the Plaintiff's and Class Members' royalty payments. Further, there are no amine units in operation by DeSoto Gathering to treat gas produced from the Class Wells.

Nonetheless, SEECO charged Plaintiff and the Class a Treatment Fee on any gas produced from a Class Well where CO_2 concentrations exceed 2%.

30. The Treatment Fee is not "cost-of-service" based, but was instead marked-up to provide additional revenue and a profit and/or return on invested capital to DeSoto Gathering, and ultimately SWN. SEECO paid Treatment Fees to DeSoto Gathering that greatly exceed DeSoto Gathering's actual costs. SEECO has, in turn, passed these inflated fees along to Plaintiff and the Class by deducting them from royalty payments. These deductions were inflated, improper, completely unrelated to the actual cost-of-service, did not enhance the marketability of the gas, and instead, merely served to enrich the co-conspirators who devised the scheme.

3. *The Compression Charge*

31. SEECO also charges Plaintiff and the Class a Compression Charge for gas that DeSoto Gathering uses and consumes to fuel compressor engines on the gathering system and for gas lost or unaccounted for, collectively called "**Fuel and Lost and Unaccounted for Gas**" or "**FL&U.**"

32. After the gross wellhead volume is brought to the surface, DeSoto Gathering consumes Plaintiff's and the Class Members' gas off-lease for fuel. The actual volume of gas delivered to and sold by SES is less than the wellhead volume by the amount of the FL&U volume. SEECO deducts the Compression Charge from the Plaintiff's and the Class' royalty by multiplying the FL&U volume by the WASP and deducting such amount from the gross revenues.

33. Additionally, Plaintiff and the Class are incredibly being charged the Gathering Fee and Treatment Fee on the FL&U volume. Despite the fact that the FL&U volume is not sold and royalty is not paid on that volume, SEECO nonetheless charges Gathering and Treatment Fees on the FL&U volume as if that gas was sold.

34. DeSoto Gathering's consumption of gas off-lease for fuel and SEECO's failure to pay royalty on gas consumed for fuel while at the same time charging Plaintiff and the Class Members Gathering and Treatment Fees on the gas consumed for fuel are unjustified and contrary to the leases and Arkansas law.

C. Plaintiff and the Class are Charged Inflated, Unreasonable, Fictitious and Unlawful Royalty Deductions.

35. In order to facilitate SWN's exploration and production activities in the Fayetteville Shale, SEECO obtained oil and gas leases. SEECO's oil and gas leases with Plaintiff and the Class Members consist of a commonly used form that SEECO, or its agents, utilized to lease thousands of acres in the Fayetteville Shale.

36. Under the leases, which are substantially similar with respect to the issues in this case, Plaintiff and the Class Members own royalty interests in production from the Class Wells.

37. Plaintiff's lease provides in pertinent part as follows:

a. "Lessee shall pay Lessor one-eighth of the proceeds derived from the sale of all gas (including substances contained in such gas) produced, saved and sold by Lessee. Proceeds are defined as the actual amount received by Lessee for the sale of said gas. In calculating the proceeds derived from the sale of gas produced, saved and sold by Lessee, ***Lessee*** shall be entitled to deduct all ***reasonable*** gathering, transportation, treatment, compression, processing and marketing ***costs that are incurred by Lessee*** in connection with the sale of such gas" and

b. "***Lessee*** shall have the right to use, free of cost, gas, oil and water found on said land ***for its operations***, except water from the wells of the lessor" (emphasis added).

38. The Plaintiff's and Class Members' leases do not allow for the deduction of costs that are not the actual, reasonable costs incurred by SEECO and do not allow third parties to use gas for their operations. Notwithstanding these limitations, Defendants generated additional profits at the expense of Plaintiff and the Class by: (1) charging inflated and unreasonable

Gathering and Treatment Fees that are not based on cost-of-service; (2) charging Treatment Fees even though no "treatment" is performed or incurred; and (3) consuming gas off-lease for fuel without paying royalty on such gas while at the same time charging Gathering and Treatment Fees on the gas consumed. Defendants' actions described herein were knowing, intentional, in bad faith and clearly violate the leases and Arkansas law.

39. Plaintiff and the Class Members have had their royalty payments calculated and paid under a common method and solely according to SEECO's internal accounting procedures that simply take sales and deduction information uploaded by DeSoto Gathering and SES to the SWN database, without any practice of auditing such number, and allocates volume, revenue, and deduction amounts to each well's interest owners.

40. The deductions to Plaintiff's and the Class Members' royalties are based on the incestuous, non-arms-length Gathering Agreement and Sales Contract. The same fixed charges regarding the Gathering Fee and Compression Charges are assessed against Plaintiff and the Class. Insofar as a Class Well is charged a Treatment Fee, the same fixed charge regarding the Treatment Fee is assessed against Plaintiff and the Class.

41. All royalties paid to Plaintiff and the Class are calculated by deriving the gross proceeds from SES's sales to third parties[3] and deducting from that amount the Gathering Fee, the Treatment Fee, if applicable,[4] and a Compression Charge.[5] This same method is followed for all Class Members. The funds wrongfully withheld are specific and readily identifiable pursuant to statements largely in control of Defendants.

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[3] Gross proceeds are calculated by multiplying wellhead volumes by the WASP.
[4] The common fixed Gathering Fee and, where applicable, the common fixed Treatment Fee are multiplied by the wellhead volumes.
[5] The Compression Charge is equal to the FL&U volumes reported by DeSoto Gathering multiplied by the WASP reported by SES.

42. The Defendants knew that the method and/or manner in which royalties were calculated and paid to Plaintiff and the Class were improper and not in accordance with their obligations to Plaintiff and the Class under Arkansas law.

43. SEECO, in concert and in agreement with the other Defendants, has also actively, intentionally and fraudulently concealed the conduct and actions alleged herein from Plaintiff and Class Members. Each month, SEECO reported royalty payments to Plaintiff and the Class on a common check stub, statement or reporting form, which were misleading and fraudulent by both omission and commission, including without limitation:

a. SEECO's check stubs effectively stated "this is what is owed" to royalty owners;

b. SEECO failed to provide on the check stub all necessary information for a royalty owner to recreate SEECO's calculations;

c. SEECO failed to fully and properly disclose all information upon which deductions are taken and royalty is calculated;

d. SEECO concealed sales and FL&U volumes and the fact that SEECO was assessing charges to Plaintiff and the Class Members for gas that was never sold;

e. SEECO concealed its overcharging of royalty owners by calculating the Gathering and Treatment Fees based on wellhead volumes even though a portion of the wellhead volumes were never delivered or sold but were instead consumed or lost;

f. SEECO failed to disclose that the deductions were related to affiliated transactions; and

g. SEECO concealed charges that were inflated, unreasonable and/or not incurred, including charges for return on investment and profit.

44. The fraudulent scheme described above began in approximately January 2006 and continues through today. Defendants have actively participated in, and profited from, this fraudulent scheme by skimming revenues from Plaintiff and the Class Members, as set forth above. SEECO, in concert and in agreement with the other Defendants, has failed to disclose, and has actively and fraudulently concealed, all of these actions from Plaintiff and the Class Members.

45. Defendants have shrouded the production and accounting functions in secrecy, thereby depriving Plaintiff and the Class Members of critical information. SEECO uses confidential internal royalty payment systems. SEECO, DeSoto Gathering, SES and SWN are in exclusive possession, custody and control of all information concerning the calculation and payment of royalty. Plaintiff and the Class Members do not have access to this information and are compelled to rely on SEECO to accurately, fairly and honestly pay royalty to Plaintiff and the Class Members.

46. Plaintiff and the Class Members did not become aware, and could not have become aware through the exercise of reasonable diligence, that the schemes described herein were in existence and are entitled to rely on the doctrines of fraudulent concealment, discovery rule, continuing conduct and estoppel, or other tolling doctrines, whether contractual, statutory or common law.

47. Plaintiff has performed all obligations under the lease and has satisfied all conditions precedent to bringing this action.

V. CLASS ACTION ALLEGATIONS

The allegations set forth above are incorporated herein by reference.

48. Plaintiff brings this action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the following **"Class"**:

> *Class:* All persons or entities who are, or were, royalty owners in wells producing natural gas from the Fayetteville Shale where SEECO, Inc. is or was the operator and/or working interest owner/lessee under oil and gas leases from and after January 1, 2006, and where DeSoto Gathering Company, L.L.C. and Southwestern Energy Services Company are gathering and purchasing the natural gas, respectively (**"Class Wells"**).
>
> *Exclusions:* The persons or entities excluded from the Class are: (a) citizens of the State of Arkansas; (b) overriding royalty interest owners who derive their interest through the oil and gas lease; (c) all governmental entities, including federal, state

and local governments and their respective agencies, departments, or instrumentalities; (d) the States and territories of the United States or any foreign citizens, states, territories or entities; (e) the United States of America; (f) publicly traded entities and their respective parents, affiliates, and related entities, including Southwestern Energy Company, SEECO, Inc., DeSoto Gathering Company, L.L.C. and Southwestern Energy Services Company; (g) owners of any interests and/or leases located on or within any federally created units, including the Ozark Highlands Unit; (h) owners of any non-operating working interest for which SEECO, Inc., or its agents or representatives, as operator, disburses royalty; (i) any persons or entities that Plaintiff's counsel is, or may be, prohibited from representing under the Arkansas Rules of Professional Conduct, including SEECO's counsel, their firms, and members of their firms; and (j) members of the judiciary and their staff to whom this action is assigned.

49. The Class is so numerous and geographically dispersed that joinder of all members is impracticable. The Class numbers more than a thousand members. The members reside in several different states.

50. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy.

51. Plaintiff's claims are typical of the Class Members' claims and Defendants' anticipated defenses to Plaintiff's claims are typical of the anticipated defenses, which will likely be asserted against Class Members as a whole. As alleged herein, Plaintiff and members of the Class all sustained damages arising out of the Defendants' common course of unlawful conduct.

52. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff's interests do not conflict with the interests of the Class. Plaintiff is represented by counsel both skilled and experienced in oil and gas accounting and complex civil litigation matters, including oil and gas class actions. Plaintiff's counsel is accustomed to handling substantial litigation matters.

53. Plaintiff and Plaintiff's counsel have no interests that conflict in any way with those of Class Members.

54. The averments of fact and questions of law herein, which are common to the members of the Class, predominate over any questions affecting only individual members. The questions of law or fact common to the Class include, but are not limited to:

a. Whether SEECO has breached, and continues to breach, its leases and statutory duties based on SEECO's method of calculating and paying royalty;

b. Whether the fees charged were reasonable and incurred;

c. Whether SEECO fully and properly disclosed all information upon which deductions are taken and royalty is paid;

d. Whether Defendants participated in an overall scheme and course of conduct that was designed to defraud Plaintiff and the Class as a group in violation of the leases and Arkansas law;

e. Whether Defendants have converted property belonging to Plaintiff and the Class;

f. Whether Defendants have engaged in a civil conspiracy injuring Plaintiff and the Class;

g. Whether fees were assessed against the Plaintiff's and the Class Members' royalty payments in a manner not consistent with Defendants' duties;

h. Whether SEECO breached its obligation to act as a reasonably prudent operator for the mutual benefit of lessee and lessor;

i. Whether SEECO breached its duty of good faith and fair dealing;

j. Whether the overall scheme alleged by Plaintiff and the Class constitutes conversion, deceit, and fraud;

k. Whether SEECO engaged in deceptive and unconscionable trade practices;

l. Whether DeSoto Gathering, SES and SWN have been unjustly enriched;

m. Whether Plaintiff and the Class Members have suffered damage as a result of Defendants' conduct; and

n. The appropriate measure of damages.

55. Class action status is warranted under Rule 23(b)(3) because questions of law or fact common to the members of the Class predominate over any questions affecting only individual

members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

56. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because:

a. The questions of law and fact are so uniform across the Class that it will be much more efficient to collectively adjudicate the claims of the Class within a single proceeding than for Class Members to individually prosecute their own actions, at their own expense;

b. The expense and burden of individual litigation make it much less practicable for the members of the Class to redress individually the wrongs committed against them and the damages suffered by them;

c. The interests of all parties and the judiciary in resolving these matters in one forum without the need for a multiplicity of actions are great;

d. The difficulties, if any, in managing this class action will be slight in relation to the potential benefits to be achieved on behalf of each and every Class Member, and not just those who can afford to bring their own actions; and,

e. Many of the Class Members, if not all, may never discover Defendants' wrongful acts due to the technical and complex nature of the accounting methods employed in the oil and gas industry, Defendants' almost exclusive access to the information relating to the claims asserted herein and fraudulent concealment of the actions which give rise to the Class Members' claims. Thus, in the absence of a class action, Defendants will not only be unjustly enriched from their past wrongdoings but also continue to profit off of unknowing Class Members.

VI. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF: BREACH OF CONTRACT (Against SEECO)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

57. Plaintiff and the Class Members have a direct contractual relationship with SEECO by virtue of their leases.

58. SEECO failed to properly report, account for and pay to Plaintiff and the Class all royalties that are due and owing under the leases by, among other things, deducting from royalty payments costs for gathering, compression and treatment that were inflated, unreasonable and/or not incurred. Additionally, SEECO failed to pay royalty on all gas produced from the Class Wells.

59. SEECO has breached the express and implied covenants in the leases, including the implied covenant of good faith and fair dealing, and has otherwise breached its duties to properly pay royalty.

60. Plaintiff and the Class have been damaged as a direct result of SEECO's breaches.

SECOND CLAIM FOR RELIEF:
VIOLATION OF THE PRUDENT OPERATOR STANDARD
ARKANSAS CODE § 15-73-207
(Against SEECO)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

61. SEECO has a statutory duty to Plaintiff and the Class Members to accurately pay royalty payments associated with the production of natural gas and constituents. *See* Ark. Code Ann. § 15-73-207.

62. SEECO's acts and omissions described herein constitute violations of the prudent operator standard and Plaintiff and the Class have suffered damages as a direct result of such violations.

THIRD CLAIM FOR RELIEF:
FRAUD AND DECEIT
(Against SEECO)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

63. SEECO secretly and knowingly underpaid royalties on the Class Wells without the knowledge of Plaintiff and the Class.

64. SEECO sent out false and misleading statements monthly to Plaintiff and the Class on check details with the intent to have Plaintiff and Class Members rely on those false statements. SEECO falsely represented material facts by, among other things, falsely representing the circumstances of its sales of gas and the deduction of costs and fees, as specifically set out in the foregoing allegations. In essence, SEECO's checks and stubs represented that "this is the amount we owe you" when, in fact, the amount was insufficient. SEECO, among other things, made many improper deductions to arrive at the net, and therefore each check was less than SEECO actually owed under the leases and Arkansas law.

65. While the check details reflect vague and confusing references to deductions, the deductions taken were inflated, unreasonable, and/or fictitious (*i.e.,* not incurred). For example, in May 2014, SEECO made deductions from Plaintiff's royalties for treatment when, in reality, no such costs could have been incurred because there are no amine units in operation by DeSoto Gathering to treat gas produced from the Class Wells.

66. SEECO, DeSoto Gathering, SES and SWN are in exclusive possession, custody and control of all information concerning the calculation and payment of royalty. Plaintiff and the Class Members do not have access to this information and are compelled to rely on SEECO to accurately, fairly and honestly pay royalty to Plaintiff and the Class Members. SEECO failed to provide material facts on the check stubs by, among other things, failing to provide all necessary information for a royalty owner to recreate SEECO's calculations, failing to fully and properly disclose all information upon which deductions are taken and royalty is calculated, and failing to disclose that the deductions were related to affiliated transactions. SEECO is under a duty to

honestly and accurately account to Plaintiff and the Class Members and to fully report to them with respect to the production, sale, and marketing of the gas and its constituents produced from the Class Wells and production proceeds. SEECO has breached this duty, as specifically set out in the foregoing allegations, and by doing so has gained an advantage over Plaintiff and the Class Members by misleading them to their detriment.

67. These misrepresentations and omissions amount to fraud.

68. Plaintiff and the Class justifiably relied on these false representations and omissions by accepting payments and, as a result, sustained damages. SEECO knew that Plaintiff and the Class would rely on these false statements and omissions. Under such circumstances, reliance of the Class is presumed in law and in fact. Plaintiff and the Class Members are entitled to recover damages as a result of SEECO's malicious and intentional misconduct in knowingly misrepresenting and omitting material facts relating to the payment of royalty on production from Class Wells.

69. SEECO should pay, in addition to actual damages, punitive damages as a method of punishing SEECO and setting an example to others.

FOURTH CLAIM FOR RELIEF:
VIOLATION OF THE ARKANSAS DECEPTIVE TRADE PRACTICES ACT
(Against SEECO)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

70. As alleged above, SEECO knowingly made false representations as to the nature and amount of royalties owed.

71. SEECO's acts and omissions described herein constitute violations of the Arkansas Deceptive Trade Practices Act, specifically Arkansas Code § 4-88-107.

72. SEECO's acts and omissions are deceptive and unconscionable trade practices that are unlawful and prohibited by Arkansas law.

73. SEECO's violations include, but are not limited to, knowingly taking advantage of Plaintiff and the Class Members who were reasonably unable to protect their interests and engaging in unconscionable, false and deceptive acts or practices.

74. Plaintiff and the Class Members suffered damages as a direct and proximate result of SEECO's conduct.

FIFTH CLAIM FOR RELIEF:
CONVERSION
(Against All Defendants)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

75. As alleged above, Defendants intentionally exercised dominion and control over property belonging to the Plaintiff and the Class which was inconsistent with their right to possess the property.

76. As a direct and proximate result of Defendants' wrongful conversion, Plaintiff and the Class have suffered and continue to suffer damages.

77. Defendants should pay, in addition to actual damages, punitive damages as a method of punishing Defendants and setting an example to others.

SIXTH CLAIM FOR RELIEF:
UNJUST ENRICHMENT
(Against DeSoto Gathering, SES and SWN)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

78. Plaintiff and the Class have no contract with DeSoto Gathering, SES or SWN. These Defendants worked in concert to profit inequitably at the expense of Plaintiff and the Class Members and have received money and/or the equivalent of money to which they were not entitled and which should be restored. DeSoto Gathering, SES and SWN have benefited from their wrongful acts and have been unjustly enriched at the expense of Plaintiff and the Class, resulting in an injustice. These Defendants should not be allowed in equity and good conscience to retain their ill-gotten gains, but instead should be forced to disgorge what they wrongfully obtained.

SEVENTH CLAIM FOR RELIEF:
VIOLATION OF ARKANSAS CODE §§ 15-74-601 to 604
(Against All Defendants)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

79. Defendants violated Ark. Code Ann. §§ 15-74-601 to 604 by willfully withholding payments due to Plaintiff and the Class, who are legally entitled to the proceeds from the production, without just cause or through bad faith.

80. Plaintiff and the Class are entitled to all unpaid proceeds, interest and penalties provided in Ark. Code Ann. §§ 15-74-601 to 604.

EIGHTH CLAIM FOR RELIEF:
VIOLATION OF ARKANSAS CODE § 15-74-708
(Against DeSoto Gathering and SES)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

81. Through contracts with DeSoto Gathering and SES, SEECO received from the sale of production from the Class Wells more than its just proportionate share therefrom. As such, under Ark. Code Ann. § 15-74-708, DeSoto Gathering and SES must forfeit to Plaintiff and the

Class treble value of the amount of oil or gas runs thus wrongfully taken from Plaintiff and the Class.

NINTH CLAIM FOR RELIEF:
CIVIL CONSPIRACY
(Against All Defendants)

The allegations set forth above are incorporated herein by reference. This claim is made both cumulatively and in the alternative to each of the other claims made.

82. Defendants have conspired, combined and acted in concert with each other to make wrongful deductions from the royalty payments to Plaintiff and the Class, and have achieved a meeting of the minds, through either express or tacit agreement, on an object or course of action of the conspiracy, including depriving Plaintiff and the Class of all royalties owed and converting Plaintiff's and the Class's property.

83. Defendants have formed and operated a civil conspiracy with each other, performing as part of the conspiracy numerous overt acts in furtherance of the common design, including one or more unlawful acts which were performed to accomplish a lawful or unlawful goal, or one or more lawful acts which were performed to accomplish an unlawful goal.

84. Defendants intended to injure, and succeeded in injuring, Plaintiff and the Class to the extent of the wrongful deductions alleged herein without legal justification.

85. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the Class have suffered and continue to suffer damages. Plaintiff and the Class are entitled to recover from Defendants all damages and costs permitted.

VII. DEMAND FOR JURY TRIAL

86. Plaintiff, individually and on behalf of the Class, demands a jury trial.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court enter a judgment against Defendants, jointly and severally, and in favor of Plaintiff and the Class Members and award the following relief:

A. Certification of this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, appointing Plaintiff as the representative of the Class and Plaintiff's counsel as counsel for the Class;

B. Declaring, adjudging, and decreeing the conduct alleged herein to be unlawful;

C. Actual, compensatory, consequential, and general damages in an amount to be determined at trial under all theories described above;

D. Treble damages;

E. Punitive damages;

F. Restitution and/or disgorgement of Defendants' ill-gotten gains, and the imposition of an equitable constructive trust over all such amounts for the benefit of the Class;

G. Statutory interest;

H. Pre- and post-judgment interest;

I. Reasonable attorneys' fees;

J. Costs and disbursements of the action; and

K. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,

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