

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF OKLAHOMA**

WHITE FAMILY MINERALS, LLC,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
vs.	)	Case No. 19-cv-409-RAW
	)	
EOG RESOURCES, INC.,	)	
	)	
<i>Defendant.</i>	)	

**DEFENDANT EOG RESOURCES, INC.’S  
ANSWER TO ORIGINAL CLASS ACTION PETITION**

Defendant EOG Resources, Inc. (“EOG”) submits the following answer to Plaintiff White Family Minerals, LLC’s (“Plaintiff”) Original Class Action Petition (the “Petition”). Each numbered paragraph and each heading below corresponds to the numbered paragraph and heading in the Petition. Any allegation in the Petition not specifically admitted below is denied.

**SUMMARY OF THE ACTION**

1. Paragraph 1 contains Plaintiff’s characterization of its claims against EOG to which no response from EOG should be required. To the extent a response is required, EOG denies that it has violated or is in violation of Oklahoma law related to payment of oil and gas production proceeds.

2. EOG lacks sufficient information to admit or deny the first two sentences of Paragraph 2 and the same are therefore deemed denied. EOG admits it is the operator of the Galaxy 2536 #1H, Section 24-10N-5W, Grady County, Oklahoma (the “Well”). The remainder of Paragraph 2 contains legal conclusions to

which no response from EOG should be required at this time. To the extent a response is required, EOG denies any allegation in Paragraph 2 that it has violated any obligation it may owe to Plaintiff or the proposed class to pay oil and gas production proceeds.

3. Paragraph 3 purports to contain general background information to which no response from EOG is required. To the extent a response is required, the allegations in Paragraph 3 are denied as to EOG.

4. Paragraph 4 purports to quote and characterize certain provisions of the Oklahoma Production Revenue Standards Act, 52 Okla. Stat. §§ 570.1-570.15 (“PRSA”). No response from EOG to such legal contentions should be required at this time. To the extent a response is required, EOG denies any allegation that it violated the PRSA.

5. Paragraph 5 purports to characterize or interpret a statute; as such, EOG is under no obligation to respond at this time. To the extent a response is required, EOG denies any allegation that it violated the PRSA.

6. EOG admits it is aware of applicable obligations imposed by the PRSA. EOG denies the allegations remaining in Paragraph 6.

7. Paragraph 7 contains Plaintiff’s characterization of its claims against EOG to which no response from EOG should be required. To the extent a response is required, EOG denies Plaintiff and/or the purported class is entitled to any of the relief sought in the Petition.

8. Paragraph 8 contains Plaintiff's characterization of its claims against EOG to which no response from EOG should be required. To the extent a response is required, EOG denies Plaintiff and/or the purported class is entitled to any of the relief sought in the Petition.

### **PARTIES**

9. EOG lacks sufficient information to admit or deny the allegations contained in Paragraph 9, and therefore denies them.

10. EOG lacks sufficient information to admit or deny the allegations in Paragraph 10, and therefore denies them.

11. Admitted.

12. EOG admits it is a producing owner or operator of certain oil and gas wells in Oklahoma. The allegations remaining in Paragraph 12 contain legal conclusions to which no response from EOG is required. To the extent a response is required, EOG denies any allegation in Paragraph 12 that EOG has failed to properly pay Plaintiff or the putative class members pursuant to the PRSA.

### **JURISDICTION AND VENUE**

13. Paragraph 13 contains a legal conclusion to which no response from EOG is required. To the extent a response is required, EOG admits jurisdiction is proper in this Court.

14. Paragraph 14 contains a legal conclusion to which no response from EOG is required. To the extent a response is required, EOG admits jurisdiction is proper in this Court.

15. Paragraph 15 contains a legal conclusion to which no response from EOG is required. To the extent a response is required, EOG admits venue is proper in this Court.

16. Paragraph 16 contains a legal conclusion to which no response from EOG is required. To the extent a response is required, EOG admits jurisdiction is proper in this Court. *See Doc. #2.*

17. Paragraph 17 contains a legal conclusion to which no response from EOG is required. To the extent a response is required, EOG contends this Court is the proper forum to adjudicate Plaintiff's and the proposed class members' claims pursuant to 28 U.S.C. §§ 1332(a) and 1332(d). *See Doc. #2.* EOG lacks sufficient information to admit or deny the remaining allegations in Paragraph 17.

#### **CLASS ACTION ALLEGATIONS**

18. EOG admits Plaintiff purports to bring this action on behalf of the proposed class defined in Paragraph 18. EOG denies the action may be certified or maintained as a class action.

19. Paragraph 19 sets forth legal conclusions as to Plaintiff's class allegations to which no response is required. To the extent a response is required, EOG lacks sufficient information to admit or deny the allegations in Paragraph 19 at this time and the same are therefore deemed denied.

20. Paragraph 20 sets forth legal conclusions as to Plaintiff's class allegations to which no response is required. To the extent a response is required,

EOG denies the allegations contained in Paragraph 20, including all subparagraphs thereof.

21. Paragraph 21 sets forth legal conclusions as to Plaintiff's class allegations to which no response is required. To the extent a response is required, EOG denies the allegations contained in Paragraph 21.

22. Paragraph 22 sets forth legal conclusions as to Plaintiff's class allegations to which no response is required. To the extent a response is required, EOG denies the allegations contained in Paragraph 22.

23. Paragraph 23 sets forth legal conclusions as to Plaintiff's class allegations to which no response is required. To the extent a response is required, EOG denies the allegations contained in Paragraph 23.

24. Paragraph 24 sets forth legal conclusions as to Plaintiff's class allegations to which no response is required. To the extent a response is required, EOG denies the allegations contained in Paragraph 24.

25. Paragraph 25 sets forth legal conclusions as to Plaintiff's class allegations to which no response is required. To the extent a response is required, EOG denies the allegations contained in Paragraph 25, including all subparagraphs thereof.

#### **GENERAL ALLEGATIONS AND FACTUAL BACKGROUND**

26. EOG admits it owns and/or operates certain oil and gas wells in Oklahoma, including the Well identified in Plaintiff's Petition. The remainder of Paragraph 26 contains legal conclusions to which no response from EOG is

required. To the extent a response is required, EOG denies it has breached any obligation it may have owed to Plaintiff and the proposed class members.

27. Paragraph 27 contains legal conclusions to which no response from EOG is required. To the extent a response is required, EOG denies the allegations in Paragraph 27.

28. Paragraph 28 contains legal conclusions to which no response from EOG is required. To the extent a response is required, EOG lacks sufficient information to admit or deny the allegations contained in Paragraph 28, and therefore denies them.

29. EOG lacks sufficient information to admit or deny the allegations in Paragraph 29, and therefore denies them.

30. Denied.

31. Denied.

32. Regarding the first sentence in Paragraph 32, EOG denies that it took advantage of any relationship with Plaintiff and/or members of the purported class, or that EOG improperly realized unauthorized benefits or profits at Plaintiff's and/or purported class members' expense. EOG denies the allegations remaining in Paragraph 32.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. EOG denies that the doctrines of equitable estoppel or tolling, open account, the discovery rule, or any other defenses apply to toll Plaintiff's and/or the purported class members' claims against EOG.

## CAUSES OF ACTION

### I. BREACH OF STATUTORY DUTY TO PAY INTEREST

38. EOG admits Plaintiff purports to bring this lawsuit on behalf of itself and the putative class. EOG denies Plaintiff has defined a proper class. EOG also denies Plaintiff and/or the putative class is entitled to any of the relief sought in the Petition.

39. Paragraph 39 contains a legal conclusion to which no response is required. To the extent a response is required, EOG denies any allegation that it failed to properly pay oil and gas production proceeds to Plaintiff and/or the members of the putative class.

40. Paragraph 40 purports to characterize or interpret a statute; as such, EOG is under no obligation to respond at this time. To the extent a response is required, EOG denies any allegation that it violated the PRSA.

41. Paragraph 41 purports to characterize or interpret a statute; as such, EOG is under no obligation to respond at this time. To the extent a response is required, EOG denies any allegation that it violated the PRSA.

42. Paragraph 42 purports to characterize or interpret a statute; as such, EOG is under no obligation to respond at this time. To the extent a response is required, EOG denies any allegation that it violated the PRSA.

43. EOG denies any allegation in Paragraph 43 that it improperly held oil and gas proceeds belonging to Plaintiff and/or the purported class. EOG denies the allegations remaining in Paragraph 43.

44. Denied.

45. Denied.

46. Denied.

## **II. BREACH OF DUTY TO INVESTIGATE AND PAY**

47. EOG admits Plaintiff purports to bring this lawsuit on behalf of itself and the putative class. EOG denies Plaintiff has defined a proper class. EOG also denies Plaintiff and/or the putative class is entitled to any of the relief sought in the Petition.

48. Paragraph 48 contains a legal conclusion to which no response from EOG is required. To the extent a response is required, EOG denies it has violated any duty it may owe to Plaintiff and/or the putative class.

49. Denied.

50. Denied.

51. Denied.

## **III. FRAUD**

52. EOG admits Plaintiff purports to bring this lawsuit on behalf of itself and the putative class. EOG denies Plaintiff has defined a proper class. EOG also denies Plaintiff and/or the putative class is entitled to any of the relief sought in the Petition.



53. Denied. Further, EOG specifically disputes that it has a duty to advise mineral interest owners that they may be entitled to statutory interest under the PRSA on allegedly untimely oil and gas proceeds payments.

54. EOG admits it owns and/or operates oil and gas wells throughout Oklahoma, including the Well at issue in this lawsuit. EOG also admits that, by owning and/or operating oil and gas wells in Oklahoma, EOG took on certain duties under Oklahoma law. EOG denies any allegation in Paragraph 54 that it violated any duties it may have owed to Plaintiff and/or the putative class.

55. EOG lacks sufficient information to admit or deny the allegations in Paragraph 55 concerning what matters Owners allegedly knew or did not know, and therefore denies the same. EOG denies the allegations remaining in Paragraph 55.

56. Paragraph 56 purports to characterize or interpret a statute; as such, EOG is under no obligation to respond at this time. Further, Paragraph 56 contains legal conclusions to which no response is required. To the extent a response is required, EOG denies any allegation in Paragraph 56 that it violated any duties it may have owed to Plaintiff and/or the putative class.

57. EOG admits it maintains certain records concerning its payment of proceeds of production from Oklahoma oil and gas wells to the owners legally entitled thereto. EOG denies the remaining allegations contained in Paragraph 57.

58. EOG lacks sufficient information to admit or deny the allegations contained in Paragraph 58, and therefore denies them.

59. EOG denies that it has a general practice or policy of withholding payments of statutory interest until it receives a written request from a mineral owner.

60. EOG admits it sends check stubs or remittance statements to Plaintiff and other mineral owners in Oklahoma oil and gas wells when EOG remits payment for proceeds from oil and gas production. Such payments may be accomplished by check or by direct deposit, depending on the circumstances. EOG denies any remaining allegations in Paragraph 60.

61. Paragraph 61 is a legal contention to which no response from EOG should be required at this time. To the extent a response is required, EOG denies the allegations contained in Paragraph 61.

62. EOG denies that it failed to disclose and pay statutory interest to Plaintiff and/or the putative class in violation of applicable law. EOG lacks sufficient information to admit or deny the allegations remaining in Paragraph 62, and therefore denies them.

63. Denied.

64. Denied.

65. Denied.

#### **IV. NEGLIGENCE PER SE**

66. Paragraph 66 purports to characterize or interpret a statute; as such, EOG is under no obligation to respond at this time. To the extent a response is required, EOG denies any allegation that it violated the PRSA.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

## **V. ACCOUNTING AND DISGORGEMENT**

71. EOG admits Plaintiff purports to obtain an accounting on behalf of itself and the putative class. EOG denies Plaintiff has defined a proper class. EOG also denies Plaintiff and/or the putative class is entitled to any of the relief sought in the Petition.

72. Paragraph 72 contains Plaintiff's characterization of the relief it requests from the Court. EOG denies Plaintiff and/or the putative class is entitled to any of the relief sought in the Petition.

73. Paragraph 73 contains legal contentions to which EOG should not be required to respond at this time. To the extent a response is required, EOG denies any allegation in Paragraph 73 that it has engaged in any unlawful behavior and further denies Plaintiff and/or the putative class is entitled to the relief sought in Paragraph 73.

74. EOG denies any allegation in Paragraph 74 that EOG has improperly or unlawfully used interest allegedly owed to Plaintiff and/or the putative class. Further, Paragraph 74 contains legal conclusions to which no response is required. To the extent a response is required, EOG denies the allegations remaining in Paragraph 74.

75. EOG denies Plaintiff and/or the putative class is entitled to the relief sought in Paragraph 75.

## **VI. INJUNCTIVE RELIEF**

76. EOG admits Plaintiff purports to seek injunctive relief on behalf of itself and the putative class. EOG denies Plaintiff has defined a proper class. EOG also denies Plaintiff and/or the putative class is entitled to any of the relief sought in the Petition.

77. EOG denies any allegation in Paragraph 77 that EOG has failed to properly pay oil and gas production proceeds and/or statutory interest to Plaintiff and/or the putative class members. EOG denies any allegations remaining in Paragraph 77.

78. Denied.

79. Paragraph 79 contains legal conclusions to which no response from EOG should be required at this time. To the extent a response is required, EOG denies any allegation in Paragraph 79 that is has violated the PRSA.

80. Paragraph 80 contains Plaintiff's characterization of the relief it requests from this Court, to which no response from EOG should be required. To the extent a response is required, EOG denies Plaintiff and/or the putative class is entitled to any of the relief sought in the Petition.

81. Denied.

## DEFENSES

Without assuming any burden of proof imposed on Plaintiff under the law, and without assuming any burden or obligation other than that imposed by operation of law, EOG asserts the following affirmative and/or additional defenses to the claims set forth in the Petition and reserves the right to seek leave to amend or supplement these defenses as discovery and further investigation warrant:

1. This suit may not properly be maintained as a class action. If a class is certified, EOG asserts the affirmative defenses set forth herein against each and every member of the certified class.
2. The Petition fails to state a claim upon which relief can be granted.
3. Plaintiff and/or the proposed class members may lack standing to assert the claims identified in the Petition.
4. The claims asserted in the Petition are not ripe for adjudication to the extent the Petition purports to assert claims on behalf of proposed class members who are currently in suspense or have otherwise not yet received an allegedly untimely proceeds payment without statutory interest.
5. Plaintiff's and the proposed class members' claims may be moot in whole or in part to the extent Plaintiff and the proposed class have been paid statutory interest on proceeds payments not made within the times set forth in the PRSA.
6. The Petition fails to plead fraud with the particularity required by Rule 9(b).

7. EOG does not owe a duty to advise mineral interest owners that they may be entitled to statutory interest under the PRSA for allegedly untimely payments of oil and gas proceeds.

8. The Petition purports to assert claims and/or impose obligations or duties on EOG beyond those imposed by the PRSA.

9. Plaintiff's or the proposed class members' tort claims fail, in whole or in part, to the extent their alleged damages arise from an alleged breach of contract. Under Oklahoma law, Plaintiff and the proposed class members must plead and prove tort claims separately from a breach of contract claim, and even an allegedly intentional breach of contract is not punishable by punitive damages.<sup>1</sup>

10. Plaintiff's and the proposed class members' equitable, quasi-contractual claims of accounting, disgorgement, and injunctive relief are precluded when there is an adequate remedy at law.<sup>2</sup>

11. Plaintiff and the proposed class members are not entitled to an accounting.

12. Plaintiff and the proposed class members are not entitled to disgorgement.

13. The PRSA provides the exclusive remedy for Plaintiff's and the proposed class members' damages allegedly resulting from EOG's purported failure to properly pay oil and gas production proceeds.<sup>3</sup>

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<sup>1</sup> *Wilspec Techs., Inc. v. DunAn Holding Grp., Co., Ltd.*, 2009 OK 12, ¶ 17, 204 P.3d 69, 75.

<sup>2</sup> See *Krug v. Helmerich & Payne, Inc.*, 2013 OK 104, 320 P.3d 1012.

<sup>3</sup> 52 Okla. Stat. § 903.

14. Plaintiff's or the proposed class members' claims may be barred, in whole or in part, by the doctrines of comparative and/or contributory negligence.

15. Plaintiff's or the proposed class members' alleged damages, if any, resulted from independent, intervening, and/or superseding causes unrelated to EOG's conduct.

16. Plaintiff's or the proposed class members' alleged damages, if any, were not directly or indirectly caused by EOG's alleged violation of any applicable statute or regulation.

17. The PRSA does not impose sufficient positive objective standards that would support a negligence per se claim in this case.

18. Plaintiff's or the proposed class members' claims may be barred, in whole or in part, by the applicable statute of limitations.

19. Plaintiff's or the proposed class members' claims may be barred, in whole or in part, by the doctrines of ratification, waiver, estoppel, quasi-estoppel, equitable estoppel, and/or laches.

20. Plaintiff's or the proposed class members' claims may be barred, in whole or in part, by the doctrines of release and accord and satisfaction.

21. Plaintiff's or the proposed class members' claims may be barred or limited, in whole or in part, by the doctrines of course of dealing, trade custom, and/or usage of trade.

22. Plaintiff's or the proposed class members' claims may be barred, in whole or in part, by the doctrine of payment and by the legal consequences that flow

from accepting the principal sum owed without interest, or alternatively by accepting interest payments.

23. Plaintiff's or the proposed class members' claims may be barred, in whole or in part, under the doctrines of payment, offset, credit, and recoupment.

24. EOG has complied with all applicable statutes, regulations, permits, and orders relating to the issues in this lawsuit, and has not otherwise breached any legal duty owed to Plaintiff.

25. Plaintiff's and proposed members' claims unlawfully seek to impose obligations on EOG contrary to, inconsistent with, or beyond the statutory requirements of Oklahoma law.

26. EOG is not liable to the extent Plaintiff and the proposed class members seek to include payments made to the State of Oklahoma and other states under the Unclaimed Property Statutes, or to the OCC under the Unclaimed Pooled Monies Statute, and EOG is not liable under the PRSA for compliance with those statutes.

27. Plaintiff and/or the proposed class members' have failed to mitigate their alleged damages, if any.

28. Plaintiff and the proposed class members are not entitled to the relief sought in the Petition.

29. EOG is not liable for the alleged actions or inactions of its predecessors or successors in title or the prior or subsequent operators of the subject oil and gas wells, if any.



30. EOG denies that all conditions precedent have occurred or been performed, including proper presentment of claims.

31. EOG has fully complied with all applicable leases, division orders, and contracts.

32. Section 10(D) of the Production Revenue Standards Act, 52 Okla. Stat. § 570.10(D), is a “special law” that violates Sections 46 and 59 of Article 5 of the Constitution of the State of Oklahoma.

33. The Production Revenue Standards Act is unconstitutionally void for vagueness.

34. The Production Revenue Standards Act upon which Plaintiff relies for its claims may limit or extinguish EOG’s liability to Plaintiff or the proposed class members.

35. EOG is not liable to Plaintiff or the proposed class members for the actions, errors, or omissions of third parties that cause a delay in production proceeds to be paid

36. EOG is not liable for incorrect or untimely payments caused by the errors or omissions of other persons or entities.

37. Any alleged untimely payments of proceeds to Plaintiff or the proposed class members may have been caused by delay on the part of other persons or entities beyond EOG’s control, including the Oklahoma Corporation Commission.

38. The Petition may have failed to name third parties who are indispensable to the relief requested in this lawsuit.

39. Plaintiff and the proposed class members are not entitled to punitive damages.

40. The Energy Litigation Reform Act, 52 Okla. Stat. § 903, does not allow punitive damages in this case, does not independently authorize punitive damages or disgorgement, and it does not displace the caps or prohibitions on such damages established by other law. That Act makes the PRSA the exclusive remedy and excludes all other relief sought by Plaintiff and the proposed class.

41. Awarding punitive damages would violate EOG's constitutional rights, including its rights to equal protection and due process under Article 2, Section 7 of the Oklahoma Constitution and the Fifth and Fourteenth Amendments of the United States Constitution. Awarding punitive damages would also be an unconstitutional taking under Article 2, Section 23 of the Oklahoma Constitution and the Fifth and Fourteenth Amendments to the United States Constitution. In addition, awarding punitive damages would violate the prohibitions against excessive fines and cruel or unusual punishment under Article 2, Section 9 of the Oklahoma Constitution and the Eighth Amendment to the United States Constitution. Among other things, awarding punitive damages would be a constitutional violation because:

- a. Oklahoma law regarding punitive damages is unconstitutionally vague and does not provide sufficient notice of the conduct that could be punished and the severity of the punishment;

- b. The unconstitutional vagueness of Oklahoma law results in arbitrary and discriminatory awards;
  - c. Oklahoma law does not provide adequate substantive and procedural safeguards to prevent arbitrary excessive and unconstitutional awards;
  - d. Oklahoma law does not provide adequate and meaningful guidance to fact finders when they award punitive damages, leaving such awards to arbitrary determinations by the fact finders;
  - e. Oklahoma law does not require that liability for and the amount of punitive damages be proven beyond a reasonable doubt;
  - f. Punitive damages are a windfall to Plaintiff, making such damages an unconstitutional taking; and
  - g. Punitive damages are not available for lawful conduct inside of Oklahoma, for conduct outside of Oklahoma, for conduct that has already been punished, for the conduct of another party, or for harm to others besides Plaintiff.
42. Plaintiff cannot establish the elements of Rule 23 of the Federal Rules of Civil Procedure required to certify a proposed class in this case because:
- a. The proposed class definition is improper and the proposed class is not ascertainable.
  - b. The numerosity requirement will not be met.
  - c. There are no questions of law or fact common to the proposed class.
  - d. Plaintiff's claims are not typical of the proposed class.

- e. Plaintiff may not be an adequate class representative.
- f. Individual issues will predominate of any common issues.
- g. The class action device is not superior to other methods of litigation for resolving the proposed class members' claims.

43. Adjudication of the claims of the putative class alleged by Plaintiff through generalized class wide proof would violate EOG's right to trial by jury guaranteed by the Oklahoma and United States Constitutions.

44. EOG reserves the right to supplement its defenses as discovery and investigation in this case progress.

#### **PRAYER FOR RELIEF**

WHEREFORE, EOG requests that the Court enter judgment in its favor and against Plaintiff on all of Plaintiff's claims; that Plaintiff take nothing for the claims asserted in the Petition; and that the Court award EOG its costs, attorney's fees, and any other relief the Court determines to be just and proper.

Submitted on January 8, 2020,

/s/ Patrick L. Stein

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