

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

(1) DASA INVESTMENTS, INC.,)
)
 Plaintiff,)
)
 v.)
)
 (1) ENERVEST OPERATING, L.L.C.;)
 (2) ENERVEST ENERGY INSTITUTIONAL)
 FUND XIII-A, L.P.; (3) ENERVEST)
 ENERGY INSTITUTIONAL FUND)
 XIII-WIB, L.P.; (4) ENERVEST ENERGY)
 INSTITUTIONAL FUND XIII-WIC, L.P.;)
 (5) ENERVEST, LTD.;)
)
 and)
)
 (6) SM ENERGY COMPANY,)
)
 Defendants.)

Case No. 6:18-CV-00083-SPS

PLAINTIFF’S SECOND AMENDED COMPLAINT

Plaintiff, DASA Investments, Inc., for itself and all others similarly situated, files this Second Amended Complaint and hereby alleges and states as follows in support of the claims asserted against EnerVest Operating, L.L.C., EnerVest Energy Institutional Fund XIII-A, L.P., EnerVest Energy Institutional Fund XIII-WIB, L.P., EnerVest Energy Institutional Fund XIII-WIC, L.P., and EnerVest, Ltd. (collectively, “EnerVest”) and SM Energy Company (collectively, “Defendants”):

SUMMARY OF THE ACTION

1. This class action suit concerns Defendants’ willful and ongoing violations of Oklahoma law related to payment of oil and gas production proceeds (“O&G Proceeds”) to persons

with a legal interest in the mineral acreage under a well which entitles such person(s) (*i.e.*, the “Owner”) to payments of O&G Proceeds.

2. Plaintiff is an Owner in one or more oil and/or gas wells in Oklahoma in which Defendants have incurred an obligation to pay O&G Proceeds pursuant to leases and/or pooling orders (the “Oklahoma Wells”).

3. At times material hereto, Plaintiff was an Owner of title and interest in and to the oil, gas, and other minerals in, under, and which may be produced from Section 25-11N-18W, Washita County, Oklahoma, including the oil, gas, and other minerals produced by OSU 2-25H, which is a well located on Section 25-11N-18W, Washita County, Oklahoma (hereinafter referred to as the “OSU Well”).

4. SM Energy Company drilled the OSU Well and was the operator of the OSU Well until on or about January 29, 2014. SM Energy Company paid royalty to Plaintiff and was obligated to pay interest to Plaintiff.

5. On April 22, 2013, SM Energy Company paid royalty to Plaintiff for O&G Proceeds obtained from the sale of production from the OSU Well dating back to April of 2012. SM Energy Company owed interest to Plaintiff on the payment of this royalty pursuant to Oklahoma’s Production Revenue Standards Act, OKLA. STAT. tit. 52, §570.10(B) & (D) (“PRSA”) or the “Act”), but SM Energy Company failed to pay such interest. SM Energy Company’s failure to pay the statutory interest owed to Plaintiff continues to this day.

6. By means of a certain Purchase and Sale Agreement dated November 4, 2013 (the “Purchase Agreement”), but effective as of October 1, 2013, EnerVest acquired certain O&G Wells and other assets from SM Energy Company, including the OSU Well (hereinafter referred

to as the “Acquired Wells”).¹ As part of the acquisition, EnerVest agreed to assume, and did assume, the obligations and liabilities on the Acquired Wells, including, but not limited to, the obligation to pay royalty and/or interest, as well as the liability for SM Energy Company’s failure to pay royalty and/or interest.

7. As a result of the acquisition of the OSU Well, EnerVest assumed the obligation to pay Plaintiff interest owed on the royalty payment made by SM Energy Company on April 22, 2013. EnerVest has failed to pay this interest, including the compounded interest owed on such interest. EnerVest’s failure to pay unpaid interest owed to Plaintiff constitutes a violation of the Act

8. As a result of the acquisition of the OSU Well and the agreements made between SM Energy Company and EnerVest, EnerVest has assumed all or part of the liability for SM Energy Company’s failure to pay interest for the royalty payment made on April 22, 2013.

9. Therefore, as set forth in this Amended Complaint, any reference to Defendants’ acts, omissions, obligations, and/or liabilities is intended to include all acts, omissions, obligations, and/or liabilities of SM Energy Company and/or EnerVest, regardless of whether such acts, omissions, obligations, and/or liabilities arise from EnerVest or from SM Energy Company regarding the Acquired Wells.

10. The oil and gas industry has historically been rife with abuse by lessees and operators who routinely delay and/or suspend payments to Owners to, among other things, obtain interest free loans at the expense of Owners. Because of the lessee’s or operator’s control over the relationship, they are able to easily and successfully employ such schemes.

¹ Defendant EnerVest Operating, L.L.C. became the operator of the OSU Well, located in Section 25-11N-18W, Washita County, Oklahoma on or about January 29, 2014.

11. Oklahoma law attempts to redress and/or prevent such abuses by requiring companies, including Defendants, to pay interest on “proceeds from the sale of oil or gas production or some portion of such proceeds [that] are not paid prior to the end of the applicable time periods provided” by statute (“Untimely Payments”). OKLA. STAT. tit. 52, §570.10(D); *see generally*, OKLA. STAT. tit. 52, § 570, *et. seq.* Further, the Acts states that “[a]ll proceeds from the sale of production shall be regarded as separate and distinct from all other funds of any person receiving or holding the same until such time as such proceeds are paid to the owners legally entitled thereto.” *Id.* at § 570.10(A).

12. SM Energy Company’s April 22, 2013 payment of royalty to Plaintiff was an Untimely Payment and SM Energy Company did not pay Plaintiff the statutory interest owed on such Untimely Payment.

13. The Act gives Owners a uniform, absolute right to interest on Untimely Payments, regardless of whether such payments were previously suspended to address title marketability issues, or any other reason such payments were not made within the time limits required by the Act. The plain language of the Act imposes an obligation to include interest on Untimely Payments. Compliance with this statutory requirement is not optional and does not require a prior written or oral demand by Owners.

14. Defendants are well aware of their obligation to pay the required interest on Untimely Payments. Nevertheless, in violation of Oklahoma law, Defendants consistently ignored their obligation to pay interest on Untimely Payments made to Plaintiff. Indeed, on information and belief, Defendants routinely delay payment of production proceeds and deny Owners the interest payments to which they are entitled as part of an overarching scheme to avoid their obligations under Oklahoma law.

15. Accordingly, Plaintiff files this class action lawsuit against Defendants to obtain relief on behalf of all similarly situated Owners who received or were entitled to receive any Untimely Payments for which Defendants did not include payment of interest as required by the Act.

16. Plaintiff files this class action lawsuit against Defendants for breach of their statutory obligation to pay interest and fraud. Additionally, Plaintiff seeks an accounting, disgorgement, and injunctive relief against Defendants.

PARTIES

17. Plaintiff DASA Investments, Inc. is a domestic corporation incorporated under the laws of the State of Oklahoma with its principle place of business in Oklahoma County, Oklahoma.

18. At all times material hereto, Plaintiff was an Owner in Oklahoma Wells and was entitled to payment of O&G Proceeds therefrom.

19. Defendant SM Energy Company is a foreign corporation incorporated under the laws of the State of Delaware. Defendant may be served with process through its registered agent for service: Corporation Service Company, 10300 Greenbriar Place, Oklahoma City, OK, 73159.

20. Defendant EnerVest, Ltd. is a foreign limited liability corporation incorporated under the laws of the State of Delaware. Defendant may be served with process through its registered agent for service: Capitol Corporate Services, Inc., 206 E. 9th Street, Suite 1300, Austin, TX 78701.

21. EnerVest Operating, L.L.C. is a Delaware limited liability company with its principal place of business in Houston, Texas. EnerVest Energy Institutional Fund XIII-A, L.P., EnerVest Energy Institutional Fund XIII-WIB, L.P., and EnerVest Energy Institutional Fund XIII-WIC, L.P. are Delaware limited partnerships with their principal places of business in Houston,

Texas. These defendants may be served with process through their registered agent for service: Capitol Document Services, Inc., 101 N. Robinson Ave., 13th Floor, Oklahoma City, OK, 73102.

22. At all times relevant to the claims asserted herein, one or more Defendants was/is a producing owner or operator of oil and/or gas wells in the State of Oklahoma. Defendants are obligated to pay O&G Proceeds to Plaintiff and the putative class.

JURISDICTION AND VENUE

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

24. This Court has jurisdiction over Defendants because Defendants are foreign corporations registered with the Oklahoma Secretary of State and regularly transact business and own property in Oklahoma, including, LeFlore County, Oklahoma. This Court has both specific and general jurisdiction over Defendants because Defendants engaged in continuous and systematic activities within the State of Oklahoma. These activities include paying royalties from wells in Oklahoma from which Plaintiff's and the Class' claims arise.

25. Venue is proper in this District pursuant to 28 U.S.C. § 1441(a), as this action was removed to this District from the District Court of LeFlore County, Oklahoma, which is embraced by this Court.

26. Venue is also proper in this District pursuant to 28 U.S.C. § 1391. Specifically, as provided by 28 U.S.C. § 1391(c), Defendants are deemed to reside in this District.

CLASS ACTION ALLEGATIONS

27. The allegations set forth above are incorporated herein by reference.

28. Plaintiff brings this action as the representative of a Class pursuant to Fed. R. Civ.

P. 23. The Class is comprised of:

All non-excluded persons or entities who received working interest, royalty, and/or overriding royalty payments from Defendants (or Defendants' predecessors) for oil and/or gas proceeds related to wells located in Oklahoma at any time prior to November 1, 2019 ("Owners").

The persons or entities excluded from the Class are: (1) agencies, departments, or instrumentalities of the United States of America or the State of Oklahoma; (2) Commissioners of the Land Office of the State of Oklahoma ("CLO"); (3) publicly traded oil and gas companies and their affiliates; (4) persons or entities that Plaintiff's counsel may be prohibited from representing under Rule 1.7 of the Oklahoma Rules of Professional Conduct, including, but not limited to, Charles David Nutley, Danny George, Dan McClure, Kelly McClure Callant, and their relatives; (5) officers of the court; and (6) Owners who are entitled to O&G Proceeds from an Oklahoma Well of less than \$10.00 for a calendar year pursuant to Okla. Stat. tit. 52 § 570.10(B)(3)(a).

29. Upon information and belief, absent Class members entitled to interest owing on Defendants' Untimely Payments number in the thousands. Therefore, the Class is so numerous that joinder of all members is impracticable.

30. The questions of fact and law common to the Class, include:

- a. Whether Plaintiff and the Class own(ed) legal interests in the Oklahoma Wells for which Defendants have an obligation to pay O&G Proceeds;
- b. Whether, under Oklahoma law, Defendants owed interest to Plaintiff and the Class on any Untimely Payments, either received or not yet received;
- c. Whether Defendants had a duty to promptly investigate whether Plaintiff and the Class were owed interest and, if so, to properly pay the interest owed to the Plaintiff and the Class;
- d. Whether Defendants' failure to pay interest to Plaintiff and the Class on any Untimely Payments, either received or not yet received, constitutes a violation of the Act;
- e. Whether Defendants defrauded Plaintiff and the Class by knowingly withholding statutory interest; and

- f. Whether Defendants are obligated to pay interest on future Untimely Payments, either received or not yet received.

31. Plaintiff's claims are typical of the Class' claims because the claims are identical for each Class member.

32. Defendants treated Plaintiff and the Class in the same way by failing to pay the required interest on Untimely Payments.

33. 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 who are skilled and experienced in oil and gas matters, accounting, and complex civil litigation, including oil and gas royalty class actions.

34. 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.

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

- a. The questions of law and fact are so uniform across the Class that there is no reason why individual members of the Class would want to control the prosecution of their own actions, at their own expense;
- b. To Plaintiff's knowledge, there is no pending litigation by any individual Class member, with the same scope of Class membership sought herein, against Defendants relating to Defendants' failure to pay interest owing on the Untimely Payments of O&G Proceeds as required by law;
- c. The interests of all parties and the judiciary in resolving these matters in one forum without the need for multiplicity of actions is great;
- d. The difficulties in managing this case as a class action will be slight in relation to the personal benefits to be achieved on behalf of each Class member, and not just those who can afford to bring their own actions; and
- e. Absent a class action, Plaintiff and the Class members may never discover the wrongful acts of Defendants, the extent of their respective financial losses, or the financial benefit they are unwittingly providing to Defendants.

GENERAL ALLEGATIONS AND FACTUAL BACKGROUND

36. The allegations set forth above are incorporated herein by reference.

37. During the relevant time period, Defendants owned and/or operated (and/or owned a working interest in) numerous oil and/or gas wells throughout Oklahoma. Defendants owed payments of O&G Proceeds to Plaintiff and Class members as a result of the mineral production from such wells.

38. “For decades, oil and gas producers or first purchasers would for various reasons delay or decline to distribute the proceeds from the first sale to interest owners and use those funds for their own purposes until they were ultimately distributed, if at all.” 2015 OK AG 6 at ¶2 (Sept. 1, 2015) (*citing* Si M. Bondurant, *To Have and to Hold: The Use and Abuse of Oil and Gas Suspense Accounts*, 31 Okla. City U. L. Rev. 1, 4 (2006)). Holders of the production proceeds frequently and intentionally avoided making any reasonable efforts to locate interest owners or notify them of their interest. *See id.* Instead, they would “suspend” their royalty payments until demanded and, in the meanwhile, gain the benefit of the possession of those funds. *See id.* Moreover, even when they eventually made the royalty payments, the holders often would not pay interest. *See id.* “[T]here was a great incentive to delay royalty payments” and “many producers routinely suspended royalties and delayed payment for many months and even years to take advantage of the interest earned during the float between the receipt of sales proceeds and disbursement of royalties.” *See id.* (*citing* Bondurant at 18). This not only deprived interest owners of the time-value of the money owed to them, it also gave rise to “an ever increasing case load of litigation between royalty owners and purchasers . . . precipitated by the use of suspense accounts.” *Id.* (*citing* *Hull v. Sun Refining & Mktg. Co.*, 1989 OK 168, ¶ 9, 789 P.2d 1272, 1277).

39. As a result of this conduct, many states, including Oklahoma, enacted statutes to curtail this abuse. In Oklahoma, the Act requires Defendants to make payments within certain time periods. Further, the Act requires Defendants to pay interest on any Untimely Payments, regardless of the reason(s) why such payments were delayed.

40. Plaintiff and the Class are entitled to rely on Defendants to act as reasonable prudent operators and to diligently investigate their right to receive interest on Untimely Payments, and if their investigation concludes that interest is owed on late payments, to promptly pay the Plaintiff and the Class such interest.

41. Plaintiff and Class members are entitled to payment of O&G Proceeds from Defendants and, pursuant to the Act, are further entitled to interest from Defendants on any Untimely Payments from Defendants, including but not limited to Untimely Payments from SM Energy Company related to the Acquired Wells, either received or not yet received.

42. Plaintiff and Class members placed their trust, confidence, and reliance in Defendants to pay them the O&G Proceeds to which they were entitled, including any interest owed thereon. Defendants had, and continue to have, superior access to information regarding O&G Proceeds and the amounts they owe to Plaintiff and the Class, including interest, on Untimely Payments. The Plaintiff and the Class were unaware that Defendants have breached and continue to breach their respective duties to pay interest due under the Act.

43. When SM Energy Company and/or EnerVest made Untimely Payments to Plaintiff and Class Members, or held O&G Proceeds in suspense accounts for more than the interest free period allowed by law, SM Energy Company and/or EnerVest failed to pay the interest owed pursuant to the Act. Indeed, on information and belief, SM Energy Company's and EnerVest's

failure to pay the statutorily required interest on Untimely Payments continues to this day as part of an ongoing scheme to avoid paying money clearly owed under Oklahoma law.

44. Based upon information and belief, Plaintiff further alleges that Defendants do not make reasonable and consistent efforts to locate and pay O&G Proceeds to Owners. Instead, Defendants keep the O&G Proceeds in suspense accounts or general operating accounts and untimely pay the O&G Proceeds to various states as abandoned/unclaimed property without also paying the statutory interest owed under the Act.

45. Defendants are not permitted to take advantage of their relationship with Plaintiff and Class members and realize unauthorized benefits or profits at the expense of Plaintiff and the Class. Defendants have used their position as the holder(s) of Plaintiff's and the Class' O&G Proceeds to avoid their statutory obligation to pay the statutory interest due to Plaintiff and the Class in the event of Untimely Payments. As such, Defendants have improperly treated Plaintiff's and the Class' O&G Proceeds as interest-free loans without their consent.

46. Upon information and belief, Defendants ignored their obligation under the Act to regard the O&G Proceeds they owed to Plaintiff and the Class as separate and distinct from Defendants' other cash assets. Rather, these proceeds were commingled with Defendants' other cash assets. As such, Defendants improperly, unfairly, and in violation of the law profited from their deliberate refusal to pay statutory interest to Plaintiff and the Class.

47. In short, Defendants blatantly ignored Oklahoma law regarding the payment of interest on Untimely Payments. Further, Defendants did not hold the O&G Proceeds for the benefit of the owners legally entitled thereto (*i.e.* Plaintiff and the Class) and, instead, held the O&G Proceeds for their own benefit. Defendants have abused their position with Plaintiff and the Class.

48. Plaintiff and the Class have been damaged by Defendants' unlawful acts and omissions.

49. Defendants' wrongdoing—which is in clear violation of Oklahoma law—is ongoing and continues to this day.

50. To the extent Defendants' rely on any statute of limitation as a defense, Plaintiff and the putative Class plead that, under the facts at issue here, the doctrines of equitable estoppel or tolling, open account, the discovery rule, and/or other defenses apply to toll the running of any statute of limitations.

CAUSES OF ACTION

I. BREACH OF STATUTORY DUTY TO PAY O&G PROCEEDS AND INTEREST

51. The allegations set forth above are incorporated herein by reference.

52. Plaintiff brings this cause of action on behalf of itself and the Class.

53. Plaintiff and the Class were legally entitled to the payment of O&G Proceeds from EnerVest (or SM Energy Company) for wells operated by SM Energy Company or EnerVest or their affiliates in Oklahoma, or in which SM Energy Company or EnerVest otherwise held O&G Proceeds.

54. Section 570.10 of the Act requires Defendants to hold O&G Proceeds from the sale of oil and/or gas production for the benefit of the Owners legally entitled thereto.

55. Section 570.10 of the Act requires payment of O&G Proceeds to be made in a timely manner according to the applicable time periods set forth in the Act.

56. If the holder of any O&G Proceeds subject to the Act fails, for any reason, to make timely payments to persons entitled to receive such O&G Proceeds, the holder must pay interest on such O&G Proceeds at the statutory rate.

57. SM Energy Company and/or EnerVest held O&G Proceeds belonging to Plaintiff and the Class and SM Energy Company and/or EnerVest failed to timely pay O&G Proceeds owing to Plaintiff and the Class as provided by the Act.

58. In violation of the Act, when SM Energy Company and/or EnerVest ultimately made their respective Untimely Payments to Plaintiff and the Class, or held O&G Proceeds in suspense accounts, or paid O&G Proceeds to various states as abandoned/unclaimed property, SM Energy Company and/or EnerVest did not pay the interest owing on the Untimely Payments.

59. Defendants' failure to pay interest owing on SM Energy Company's and/or EnerVest's Untimely Payments of O&G Proceeds was knowing and intentional and/or the result of Defendants' gross negligence.

60. Defendants' failure to pay interest owing on Untimely Payments of O&G Proceeds has caused Plaintiff and the Class to suffer harm.

II. BREACH OF DUTY TO INVESTIGATE AND PAY

61. The allegations set forth above are incorporated herein by reference.

62. Plaintiff brings this cause of action on behalf of itself and the Class.

63. Defendants have a duty to diligently investigate the identity and location of Owners and to timely pay O&G Proceeds and failing that, to pay statutory interest.

64. Defendants breached this duty when they failed to diligently investigate the rights of the Plaintiff and the Class to receive interest on Untimely Payments and pay such interest to the Plaintiff and the Class when owed.

65. Plaintiff and the Class have been damaged by Defendants' actions and violations of the law.

66. Defendants' failure to diligently investigate the rights of the Plaintiff and the Class to receive interest on Untimely Payments and pay such interest to the Plaintiff and the Class is a result of Defendants' actual knowing and willful intent: (a) to deceive the members of the Class, and/or (b) to deprive such interest from persons the Defendants know, or are aware, are legally entitled thereto. Thus, Defendants should be required to pay punitive damages as a method of punishing Defendants and setting an example for others.

III. FRAUD

67. The allegations set forth above are incorporated herein by reference.

68. Plaintiff brings this cause of action on behalf of itself and the Class.

69. Defendants operate or have operated numerous oil and/or gas wells throughout Oklahoma. Thus, Defendants knowingly and intentionally took on the duties associated with such interests, including the duty to pay O&G Proceeds to Owners in accordance with Oklahoma law.

70. Defendants, however, took on such duties with the intent to deceive Owners and not pay the full O&G Proceeds owed. Specifically, Defendants knew they owed interest on Untimely Payments, but knowingly and intentionally suppressed the fact that interest was owed to Plaintiff and the Class members. Further, Defendants intended to avoid their obligation to pay the statutorily mandated interest and only pay when an Owner specifically requests payment of the statutory interest.

71. Plaintiff and the Class relied on and trusted Defendants to pay them the full O&G Proceeds to which they were entitled under Oklahoma law.

72. Plaintiff and the Class have been damaged by Defendants' actions and violations of law.

73. Defendants' failure to pay the interest they owe to Plaintiff and the Class is a result of Defendants' actual knowing and willful intent: (a) to deceive the members of the Class, and/or (b) to deprive such interest from persons Defendants know, or are aware, are legally entitled thereto. Thus, Defendants should be required to pay punitive damages as a method of punishing Defendants and setting an example for others.

IV. ACCOUNTING AND DISGORGEMENT

74. The allegations set forth above are incorporated herein by reference.

75. Plaintiff requests an accounting on behalf of itself and the Class.

76. Plaintiff requests the Court enter an order directing Defendants to provide an accounting to Plaintiff and Class members which discloses: (a) the amount of accrued interest that Plaintiff and each Class member should have been paid by Defendants, and (b) the method for calculating such amounts.

77. Defendants' payment of interest owed to Plaintiff and the Class does not provide an adequate legal remedy for the wrongs and violations committed by Defendants because it will not deprive Defendants of the ill-gotten gains they have obtained through their unlawful behavior.

78. The principles of equity and good conscience do not permit Defendants to retain the benefits derived from their improper and unlawful use of interest owed on Untimely Payments made to Plaintiff and the Class.

79. Therefore, Plaintiff requests the Court enter an order directing Defendants to disgorge themselves of any benefits derived from their improper and unlawful use of Plaintiff's and the Class' interest payments, including interest that has accrued on such interest since the time in which SM Energy Company and/or EnerVest made the disputed payments to Plaintiff and the Class.

V. INJUNCTIVE RELIEF

80. The allegations set forth above are incorporated herein by reference.

81. Plaintiff seeks injunctive relief on behalf of itself and the Class.

82. Unless enjoined by this Court, Defendants will continue their pattern and practice of failing to pay interest owed on Untimely Payments to Plaintiff and the Class members.

83. Defendants have utilized their superior knowledge and control of information regarding Plaintiff's and the Class' entitlement to interest on Untimely Payments to engage in a fraudulent scheme with regard to their willful and intentional failure to pay such interest. As such, Defendants' wrongdoing is ongoing, and injuries in the future to Plaintiff and the Class are irreparable in that the vast majority of Class members are unaware of their right to be paid interest.

84. There is no adequate and complete remedy at law for continuing violations of the Act by Defendants.

85. Plaintiff requests the Court enter a permanent injunction, ordering Defendants to pay interest as required by law when Defendants make future Untimely Payments to Plaintiff and the Class.

86. Defendants will not suffer any harm as a result of granting the Class members' request for injunctive relief because Defendants' compliance with the Court's order will be consistent with Defendants' legal obligations and duties to Plaintiff and the Class.

PRAYER FOR RELIEF

Wherefore, premises considered, Plaintiff seeks:

1. An order certifying and allowing this case to proceed as a class action with Plaintiff as class representative and the undersigned counsel as class counsel;
2. An order requiring Defendants to pay Plaintiff and Class members actual damages to fully compensate them for losses sustained as a direct, proximate, and/or

producing cause of Defendants' breaches and/or unlawful conduct including, without limitation, the compounded interest on Untimely Payments as required by law;

3. An order requiring Defendants to provide Plaintiff and the Class with an accounting;
4. An order requiring Defendants to disgorge themselves of the ill-gotten gains they have obtained through the unlawful use of interest owed to Plaintiff and the Class;
5. An order requiring Defendants to pay interest in the future, as required by law, to Plaintiff and the Class;
6. An order awarding punitive damages as determined by the jury and in accordance with Oklahoma law on Defendants' wrongful acts, as alleged in this Amended Complaint;
7. An order requiring Defendants to pay the Class attorneys' fees and litigation costs as provided by statute; and
8. Such costs and other relief as this Court deems appropriate.

ATTORNEYS' LIEN CLAIMED

JURY TRIAL DEMANDED

s/Patrick M. Ryan

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2019, I electronically transmitted the attached document to the clerk of this Court using the ECF system for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Jay P. Walters – jwalters@gablelaw.com
Guy S. Lipe – glipe@velaw.com
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s/Patrick M. Ryan

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