

# Oil and Gas, Natural Resources, and Energy Journal

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Volume 4 | Number 3

*The 2018 Survey on Oil & Gas*


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September 2018

## Arkansas

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### Recommended Citation

Kelli D. Smith, *Arkansas*, 4 OIL & GAS, NAT. RESOURCES & ENERGY J. 307 (2018),  
<https://digitalcommons.law.ou.edu/onej/vol4/iss3/3>

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## ARKANSAS



*Kelli D. Smith\**

### *I. Introduction*

In Arkansas, there were few new developments in oil and gas law during the survey period of August 1, 2017 to July 31, 2018. The Arkansas General Assembly met during the survey period; however, all matters concerning oil and gas dealt with funding the Arkansas Oil and Gas Commission and were not substantive. In the courts, three class action suits concerning royalty payments appear to have resolved, putting an end to an

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eight-year legal fight between thousands of landowners and Southwestern Energy Company, the largest natural gas producer in the state.<sup>1</sup>

## *II. Judicial Developments*

Last summer, a jury issued a verdict in *Smith v. SEECO, Inc.*, the first of the class action suits, in favor of Southwestern and its subsidiaries after it was alleged that they unpaid and/or underpaid royalties. The original complaint alleged that Southwestern and its affiliates violated lease provisions by creating “a system in which they fraudulently sell their services to each other, setting up a system of self-dealing . . . ,” which skims money from the revenues the plaintiffs should have received.<sup>2</sup> The jury found no evidence of a fraudulent scheme.<sup>3</sup> The plaintiffs appealed and in October, the United States District Court of E. D. Arkansas, Western Division, denied the appeal.<sup>4</sup> The plaintiffs filed another appeal in December.<sup>5</sup> Since *Smith* was the first of the cases to have a resolution, it indicates what would be the likely outcome for the rest of the cases.

In the state court case of *Snow v. SEECO, Inc.*, the plaintiffs also alleged that Southwestern and its subsidiaries were making improper deductions in gas sales, thereby paying a lower royalty to landowners.<sup>6</sup> *Snow* became the second case to come to a resolution after the parties reached a settlement in June agreeing that Southwestern would pay \$7,900,000.00 and that the company has the right to continue its royalty payment practices.<sup>7</sup>

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1. Arkansas Democrat-Gazette, May 20, 2017, by Emily Walknorst, “In shale suit, deal reached,” available at [www.pressreader.com](http://www.pressreader.com), last visited on August 31, 2018; <https://www.ogj.com/unconventional-resources/fayetteville-shale.html>, (last visited on August 31, 2018).

2. Complaint at 6, *Smith v. SEECO, Inc.*, No. 4:14-cv-00435-BRW (E.D. Ark. July 25, 2014) (original available for download via Westlaw).

3. Verdict Form, *Smith v. SEECO, Inc.*, No. 4:14-CV-00435-BSM, 2017 WL 3136117 (E.D. Ark. June 16, 2017) (original available for download via Westlaw).

4. Order, *Smith v. SEECO, Inc.*, No. 4:14-cv-00435-BSM (E. D. Ark. October 31, 2017).

5. Appeal Notification, *Smith v. SEECO, Inc.*, No. 4:14-CV-00435-BSM (E.D. Ark. December 4, 2017).

6. First Am. Compl., *Snow v. SEECO, Inc.*, Circuit Court of Conway County, Arkansas, Case No. CV-2010-126, available at <https://secure.dahladmin.com/SNOW/Index> (last visited on August 31, 2018).

7. Compromise and Settlement Agreement, *Snow v. SEECO, Inc.*, Circuit Court of Conway County, Arkansas, Case No. CV-2010-126, available at <https://secure.dahladmin.com/SNOW/Index>, (last visited on August 31, 2018).

The third class action suit, *Stewmon v. SEECO, Inc.*, does not appear to be active since it was certified in 2016.<sup>8</sup>

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8. *See Stewmon v. SEECO, Inc.*, 506 S.W.3d 828 (Ark. December 8, 2016, rehearing denied).