

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

(1) MICHELLE WHITE, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

(1) CHESAPEAKE ENERGY CORP.;
(2) CHESAPEAKE EXPLORATION, LLC,
as successor by merger to CHESAPEAKE
EXPLORATION, LP;
(3) SANDRIDGE ENERGY CORP.;
(4) TOM L. WARD; and
(5) JOHN DOES 1-50,

Defendants.

Civil Action No. CIV-16-351-F

CLASS ACTION COMPLAINT

Plaintiff Michelle White (“Plaintiff”), individually and on behalf of all others similarly situated, brings this action for treble damages under the antitrust laws of the United States.

INTRODUCTION

1. This antitrust class action arises out of Defendants’ conspiracy to rig bids and artificially depress prices for purchases of (1) properties containing oil and natural gas wells and (2) oil and natural gas leasehold interests in such properties, in violation of Sections 1 and 3 of the Sherman Antitrust Act, 15 U.S.C. §§ 1, 3.

2. In a properly functioning competitive market, there is heavy competition among oil and gas companies to obtain properties or leasing rights in properties for drilling activities. But instead of lawfully bidding for and paying landowners the market price for those properties or rights, Defendants have worked together to rig bids and cheat landowners in order to pay artificially low prices and ensure enormous profits for themselves—at the great expense of landowners.

3. Defendants began conspiring on or around December 27, 2007 and continued their unlawful scheme until at least April 1, 2013 (the “Class Period”).

4. The conspiracy resulted in a federal investigation and criminal indictment against Aubrey K. McClendon, a founder and former chief executive officer of Defendant Chesapeake Energy Corp. The indictment alleged that during the Class Period, Mr. McClendon and others colluded not to bid against each other for the purchase of oil and natural gas leases in northwest Oklahoma.¹ See *United States v. Aubrey K. McClendon*, No. CR-16-043 (W.D. Okla. March 1, 2016).

5. Defendant Chesapeake Energy Corp. has been actively cooperating for some time with a criminal antitrust investigation by the Department of Justice regarding past land leasing practices in exchange for conditional leniency under the Antitrust Division's Leniency Program.

¹ The day after the Department of Justice issued the indictment, Mr. McClendon died in a car crash. The indictment has thus been voluntarily dismissed.

JURISDICTION AND VENUE

6. Plaintiff brings this action under Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15 and 26, to recover treble damages, costs of suit, reasonable attorneys' fees, and all other appropriate equitable and other relief for violations of Sections 1 and 3 of the Sherman Antitrust Act, 15 U.S.C. §§ 1, 3.

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1337, and Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15 and 26.

8. Venue is proper in this District under 28 U.S.C. § 1391(b), (c), and (d), as well as Sections 4 and 12 of the Clayton Act, 15 U.S.C. §§ 15 and 22, because, during the Class Period, Defendants transacted business, were found, or acted through subsidiaries or agents present in this District. Additionally, a substantial part of the interstate commerce involved and affected by the alleged violations of the antitrust laws was and is carried out in part within this District. The acts complained of have had, and will have, substantial anti-competitive effects within this District.

9. This Court has personal jurisdiction over Defendants under 15 U.S.C. § 22 and because, *inter alia*, each: a) transacted business in this District; b) purchased leasehold interests and producing properties in this District; c) have substantial aggregate contacts with this District; and d) engaged in an illegal price-fixing, bid-rigging, and customer and market allocation conspiracy that was directed at, and had the intended effect of, causing injury to, persons and entities residing in, located in, or doing business in this District.

PARTIES

Plaintiff

10. Plaintiff Michelle White (“Plaintiff”) is a landowner who leased mineral interests in Woods County, Oklahoma to Defendant Chesapeake Energy Corporation in approximately 2010. Woods County is in northwest Oklahoma, which is within the Anadarko Basin Region.

Defendants

11. Defendant Chesapeake Energy Corporation is a corporation organized under the laws of the State of Oklahoma, with its principal place of business at 6100 N. Western Avenue, Oklahoma City, Oklahoma 73118.

12. Defendant Chesapeake Exploration, LLC is a limited liability company organized under Oklahoma law. Chesapeake Exploration, LLC is comprised of three members: Chesapeake Operating, LLC, Chesapeake E&P Holding Corporation, and Chesapeake Appalachia, LLC. Chesapeake E&P Holding Corp. is a corporation organized under Oklahoma law with its principal place of business in Oklahoma. Chesapeake Appalachia, LLC is a limited liability company with Chesapeake Energy Corporation as its sole member. Chesapeake Energy Corporation is a corporation organized under Oklahoma law with its principal place of business in Oklahoma.

13. Unless otherwise noted, this Complaint refers to Chesapeake Energy Corp. and Chesapeake Exploration, LLC, collectively as “Chesapeake.”

14. Defendant SandRidge Energy Corp. (“SandRidge”) is a corporation organized under the laws of the State of Delaware with its principal place of business at 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102.

15. Defendant Tom L. Ward is the founder and former chief executive officer of SandRidge. He is also a co-founder and former chief operating officer of Chesapeake Energy Corp.

16. Defendants John Doe Nos. 1-50 are other entities or persons whose identities are currently unknown to Plaintiff. John Doe Nos. 1-50 participated in the bid rigging and unlawful anticompetitive behavior, as described herein.

17. The acts alleged herein were committed by each of the co-conspirators, were fully authorized by each of those co-conspirators, or ordered, or done by duly authorized officers, agents, employees, or representatives of each co-conspirator while actively engaged in the management, direction, or control of its affairs.

INTERSTATE TRADE AND COMMERCE

18. Throughout the Class Period, Defendants’ conduct with respect to the purchases of leasehold interests and producing properties that are the subject of this Complaint were within the continuous and uninterrupted flow of, and substantially affected, interstate trade and commerce. Such conduct included:

- (a) entering into and executing transactions for the purchase of leasehold interests and interests in producing properties that include purchasers and sellers from different states;

- (b) transferring (or causing the transfer of) money or payments across state lines in connection with purchases of leasehold interests and interests in producing properties; and
- (c) selling oil, natural gas, and natural gas liquids in interstate commerce.

FACTUAL ALLEGATIONS

Oil and Gas Leaseholds and Producing Properties

19. An oil or natural gas lease is an agreement between two parties—the property owner (lessor) and an oil and gas company (lessee), under which the lessee receives access to the property and minerals (oil and gas) on the property of the lessor in exchange for rental payments prior to production and royalty payments thereafter, as described below. Because expectation of royalties may not provide enough incentive for a lessor to sign a lease (given that royalties will not be paid until oil and/or gas is produced), some lessees offer bonus payments, a one-time payment of money to the lessor as an inducement to execute the lease.

20. The leasehold interest grants the lessee the right to develop the mineral interest to explore for and extract oil, natural gas, and natural gas liquids for a set period of time, called the “primary term” (typically three to five years), as long as the lessee pays the annual rental price. The lease expires after the primary term, unless drilling or oil and gas production has started on the land. If production is established, the lease will remain in effect past the primary term, into what is known as the “secondary term.” The lease is considered “held by production” during this term, which will generally continue for as

long thereafter as there is “production in paying quantities” from the leased premises. That is, in order to gain this extension, the lessee must produce quantities sufficient to yield a return, however small, in excess of the “lifting costs.” Lifting costs refer to the cost of producing oil and gas after drilling is complete. Accordingly, the impact of Defendants’ conspiracy affects the royalties paid, potentially, for generations.

21. Typically, an oil lease is created when a landman approaches a landowner who owns both the surface rights and the mineral rights to her land. Landmen typically work for an oil company and are an important part of the oil company’s exploration team. An oil and gas lease is created only after a landman has studied geologic maps of the area and researched deeds on the land.

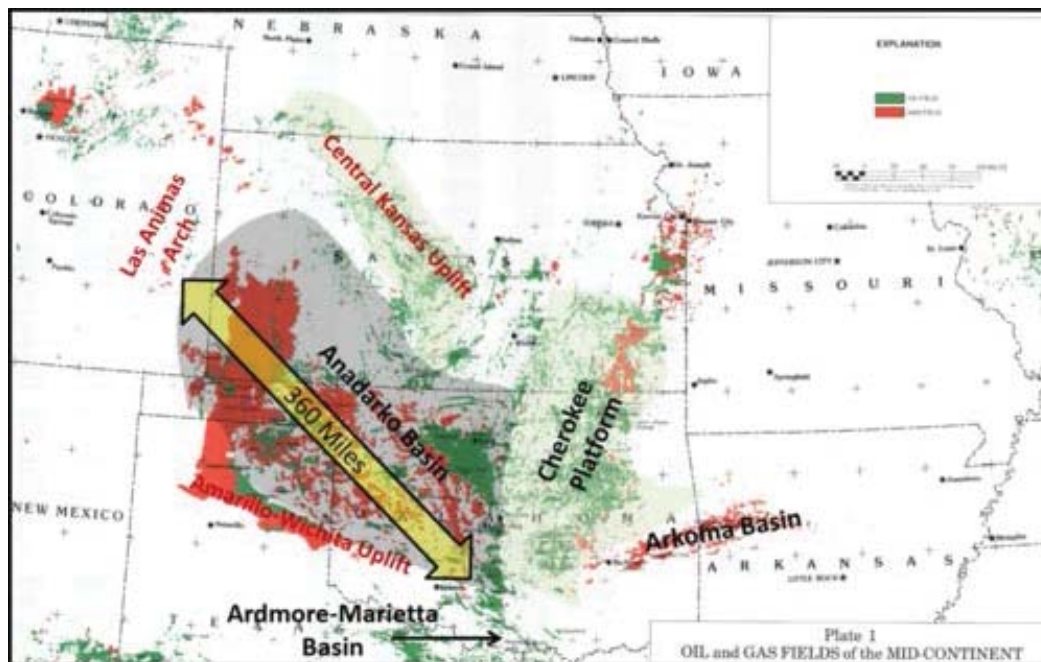
22. Absent collusive behavior in the oil and gas industry, exploration and production companies like Chesapeake and SandRidge compete to purchase oil and natural gas leasehold interests. Such competition leads to fair market-based prices (i.e. rental prices, bonus payments and royalty rates) of oil and natural gas leasehold interests, resulting in fair compensation for landowners like Plaintiff.

23. Exploration and production companies also compete to purchase interests in properties that are already producing in paying quantities. “Producing properties” are tracts of land with existing wells that are actively producing oil, natural gas, or natural gas liquids. The current lessee of the interest may sell it to an exploration and production company like Chesapeake and SandRidge. The transaction typically includes the underlying leasehold estate and the drilling infrastructure on the land, including any producing wells.

Defendants' Antitrust Violations in the Anadarko Basin Region

24. During the Class Period, Chesapeake and SandRidge were actual and potential competitors for the acquisition of the leasehold interests and producing properties in the Anadarko Basin Region, which are the subject of the conspiracy alleged in this Complaint.

25. The Anadarko Basin Region, as that term is defined in the Complaint, includes the Anadarko Basin, the Anadarko Woodford Shale Play, the South Oklahoma Woodford Shale Play, and the Mississippian Lime Play. The Anadarko Basin Region is one of the deepest and most prolific hydrocarbon producing fields in the continental United States. The basin reaches into parts of northwest Oklahoma, north Texas, southeast Colorado, and Kansas.²



²http://www.ogs.ou.edu/MEETINGS/Presentations/OilGasMar2012/MITCHELL_ANADARKO.pdf (last visited Apr. 11, 2016).

26. Chesapeake and SandRidge pursued similar strategies of quickly and aggressively acquiring vast holdings of oil and gas leaseholds in the Anadarko Basin Region.

27. To execute their strategy, Chesapeake and SandRidge hired thousands of employees to review databases containing millions of property records. Using these records, they were able to quickly identify the owners of titles to land in prime territories.

28. By 2012, Chesapeake and SandRidge held, by far, the largest acreage of oil and gas leaseholds in the Anadarko Basin Region. Chesapeake had acquired approximately 2.4 million net acres and SandRidge more than 1.5 million net acres in the Anadarko Basin Region. The next largest owner of oil and gas leaseholds had fewer than 500,000 net acres in the region.

29. During the Class Period, Defendants and their representatives discussed and agreed on which parcels of land in the relevant area each would bid on and lease, and at what prices. Chesapeake and SandRidge both made artificially suppressed bonus and royalty payments to Class Members and capped those payments at the same prices.

30. Chesapeake and SandRidge often purchased mineral interests in different geographic areas within various counties in the Anadarko Basin Region, including the Mississippian Lime Play, avoiding direct competition over the same tracts. These purchases were pursuant to and in furtherance of their conspiracy to rig bids and allocate customers and markets.

31. The impact of Defendants' illegal agreements not to compete in the acquisition of leasehold interests or interests in producing properties was to artificially reduce bonus

and royalty payments to landowners in the Anadarko Basin Region during the Class Period.

32. Defendant Ward personally benefitted from any bid rigging that resulted in SandRidge paying lower prices for leases as a result of a program known as “SandRidge Executive Well Participation Program,” during the Class Period. Through this program, Mr. Ward was able to participate in all of the wells spudded by or on behalf of SandRidge throughout the Class Period.

Criminal Indictment by the Department of Justice

33. On March 1, 2016, a grand jury indicted Mr. McClendon on a charge of engaging in conduct that amounted to an “unreasonable restraint of interstate commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).” *United States v. Aubrey K. McClendon*, No. CR-16-043, (W.D. Okla. March 1, 2016). The conduct that gave rise to the charge was “a combination and conspiracy to suppress and eliminate competition by rigging bids for certain leasehold interests and producing properties” which had the effect of ‘keep[ing] prices down’ for those leasehold interests.”

34. The indictment stated that the conspiracy began on or about December 27, 2007, when Mr. McClendon contacted an unnamed competitor and proposed eliminating head-to-head competition between the companies for the purchase of certain leaseholds and producing properties by agreeing not to submit bids for these interests. Mr. McClendon and the competitor agreed that the competitor would refrain from submitting bids for certain leaseholds and producing properties. In exchange, the competitors would

receive, at cost, a share of the leaseholds and producing properties purchased by Chesapeake.

35. The purpose of the combination and conspiracy was to suppress the prices that Chesapeake and SandRidge paid to acquire certain leasehold interests and producing properties in Colorado, Kansas, Oklahoma, and Texas by eliminating competition between them.

36. According to the indictment, the conspiracy continued to suppress pricing on leaseholds and producing properties until at least March 31, 2012.

37. According to the indictment, Defendants accomplished the combination and conspiracy by:

- a) engaging in communications concerning certain leasehold interests and producing properties, and the prices therefore, in the Western District of Oklahoma;
- b) agreeing during those communications that [Chesapeake and SandRidge] would not compete against one another for certain leasehold interests and producing properties in the Western District of Oklahoma either by one company not submitting offers or bids to certain owners of leasehold interests and producing parties, or by one company withdrawing previously submitted offers or bids to certain owners of leasehold interests and producing parties in exchange for a share or a subset of the leasehold interests and/or producing properties purchased by the other company at the acquisition cost;

- c) submitting offers or bids, withholding offers or bids, or acting to withdraw previously submitted offers or bids, to owners of certain leasehold interests and producing properties in the Western District of Oklahoma in accordance with the agreement reached;
- d) acquiring certain leasehold interests and producing properties in the Western District of Oklahoma at collusive and noncompetitive prices and then providing the non-acquiring co-conspirator a share or a subset of the leasehold interests and/or producing properties at the acquiring co-conspirator's cost; and
- e) employing measures to keep their conduct secret, including, but not limited to, agreeing not to reveal their anticompetitive agreement to the owners of the leasehold interests and producing properties at issue in the indictment, and instructing their subordinates to do the same.

38. Chesapeake has publicly stated that it has been “actively cooperating [with the Department of Justice] for some time” under the Department’s conditional leniency program, in an attempt to shield itself from criminal antitrust charges, fines, and penalties.

CLASS ACTION ALLEGATIONS

39. Plaintiff brings this action on behalf of herself and a class of similarly situated persons and entities pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following Class (hereinafter referred to as the “Class”):

All persons and entities who sold to one or more Defendants (a) oil and gas leasehold interests in the Anadarko Basin Region and/or (b) properties or interests in properties with producing oil and gas wells, relating to land located in the Anadarko Basin Region. Excluded from the Class are Defendants and any parent, subsidiary, officer, director, employee, and immediate family thereof.

40. Plaintiff does not know the exact number of members of the Class because such information is in the exclusive control of Defendants. Due to the nature of the trade and commerce involved, however, Plaintiff believes that Class members number at least in the hundreds or thousands, and are sufficiently numerous and geographically dispersed so that joinder of all Class members is impracticable.

41. There are questions of law and fact which are common to the claims of Plaintiff and the Class, including, but not limited to:

- a) Whether Defendants engaged in a combination or conspiracy with their co-conspirators to rig bids and/or allocate the market for the purchase of leasehold interests and producing properties;
- b) Whether the purpose and/or effect of the acts and omissions alleged herein was to restrain trade, or to affect, fix, or depress the price of leasehold interests and producing properties;
- c) Whether Defendants violated Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3);

- d) Whether Defendants' agents, officers, employees, or representatives participated in correspondence and meetings in furtherance of the illegal conspiracy alleged herein, and if so, whether such agents, officers, employees, or representatives were acting within the scope of their authority and in furtherance of Defendants' business interests;
- e) Whether, and to what extent, the conduct of Defendants caused injury to Plaintiff and members of the Class, and, if so, the appropriate measure of damages; and
- f) Whether Plaintiff and members of the Class are entitled to injunctive relief to prevent the continuation or furtherance of the violation of Sections 1 and 3 of the Sherman Act.

42. Plaintiff's claims are typical of the claims of the members of the Class because her claims arise from a similar course of conduct and share the same legal theories as compared to the claims of other class members.

43. Plaintiff will fairly and adequately assert and protect the interests of the Class. Plaintiff's interests are coincident with, and not antagonistic to, those of the other members of the Class.

44. Plaintiff is represented by counsel who are competent and experienced in the prosecution of antitrust and class action litigation.

45. The questions of law and fact common to the members of the Class (including those listed above) predominate over any questions affecting only individual members.

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

- a) The Class is readily definable and one for which records should exist in the files of Defendants;
- b) Prosecution as a class action will eliminate the possibility of repetitious litigation;
- c) Treatment as a class action will permit a large number of similarly situated persons to adjudicate their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would require;
- d) Class treatment will permit the adjudication of relatively small claims by many Class members who otherwise could not afford to litigate an antitrust claim such as is asserted in this Complaint on an individual basis.

47. This class action presents no difficulties of management that would preclude its maintenance as a class action.

TOLLING OF THE STATUTE OF LIMITATIONS

48. Plaintiff had neither actual nor constructive knowledge of the facts constituting her claim for relief.

49. Plaintiff and members of the Class did not discover, and could not have discovered through the exercise of reasonable diligence, the existence of the conspiracy alleged herein until on or about March 1, 2016, the date on which the indictment of Mr. McClendon became public.

50. Defendants engaged in a secret conspiracy that did not reveal facts that would put Plaintiff or the Class on inquiry notice that there was a conspiracy to fix prices for leasehold interests and producing properties.

51. Accordingly, Plaintiff could not have had either actual or constructive knowledge of the price fixing scheme until Mr. McClendon's indictment became public.

52. Because Defendants' agreement, understanding, and conspiracy were kept secret, Plaintiff and members of the Class were unaware of Defendants' unlawful conduct alleged herein and did not know that the prices for which they sold their leasehold interests or producing properties were artificially depressed during the Class Period.

COUNT I

Violation of Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3)

53. Plaintiff incorporates by reference the preceding paragraphs as if fully set forth herein.

54. Defendants and their co-conspirators engaged in a continuing combination and conspiracy to rig bids and unlawfully depress the prices of leasehold interests and producing properties within the United States, its territories, and the District of Columbia in violation of Sections 1 and 3 of the Sherman Act (15 U.S.C. §§ 1, 3).

55. Defendants and their co-conspirators agreed to, and did in fact, restrain trade or commerce by bid rigging and depressing the prices for leasehold interests and producing properties below competitive levels.

56. In formulating and effectuating their combination or conspiracy, Defendants and their co-conspirators engaged in bid rigging and other anticompetitive activities, the purpose and effect of which were to artificially depress the price of leasehold interests and producing properties.

57. The illegal combination and conspiracy alleged herein had the following effects, among others:

- a) The prices Defendants paid Plaintiff and members of the Class for the leasehold interest and producing properties were artificially depressed below competitive levels;
- b) Plaintiff and members of the Class have been deprived of free and open competition in sales of their leasehold interests and producing properties;
- c) Plaintiff and members of the Class have sold their leasehold interests and producing properties for less than they would have had they sold in a competitive marketplace where Defendants' combination and conspiracy was absent;
- d) Competition for the purchase of leasehold interests and producing properties have been restrained.

58. As a direct and proximate result of Defendants' conduct, Plaintiff and members of the Class have been injured and damaged in their business and property in an amount to be determined according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

- a) That the Court determine that this action may be maintained as a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure;
- b) That the Court determine that the contract, combination, and conspiracy alleged herein is a *per se* unreasonable restraint of trade in violation of Sections 1 and 3 of the Sherman Act;
- c) That the Court enter judgment against Defendants, jointly and severally, in favor of Plaintiff and the Class;
- d) That the Court award Plaintiff and the Class treble damages;
- e) That the Court award Plaintiff and the Class attorneys' fees and costs as well as pre-judgment and post-judgment interest as permitted by law; and
- f) That the Court award Plaintiff and the Class such other and further relief as may be deemed necessary and appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff requests a jury trial on all matters so triable.

Dated this 12th day of April, 2016.

Respectfully submitted,

s/ Tara Tabatabaie

Tara Tabatabaie, OBA No. 21838

SILL LAW GROUP, PLLC

14005 N. Eastern Ave.

Edmond, OK 73013

Telephone: 405-509-6300

Facsimile: 405-509-6268

Email: tara@sill-law.com

-and-

GIRARD GIBBS LLP

Eric Gibbs (pro hac vice pending)

Michael Schrag (pro hac vice pending)

Steve Lopez (pro hac vice pending)

Linda Lam (pro hac vice pending)

One Kaiser Plaza, Suite 1125

Oakland, CA 94612

Telephone: 510-350-9700

Attorneys for Plaintiff