Docket #0025 Date Filed: 2/2/2021

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
EXTRACTION OIL & GAS, INC., *et al.*,[1]	)	Case No. 20-11548
Reorganized Debtors.	)	(Jointly Administered)

ANNETTE LEAZER; TOM LEAZER; GORDON NISWENDER; JOY NISWENDER; H.L. WILLETT ESTATE; SAGLIO ENERGY LLC; OVERLAND OIL & GAS ADVISORY LLC; OVERLAND MINERALS AND ROYALTIES LLC; OVERLAND ENERGY PARTNERS FUND I LLC; OVERLAND ENERGY PARTNERS FUND II LLC; J A INVESTMENTS; BRIGHTON SOUTH, LLC; ATOMIC CAPITAL MINERALS, LLC; ACM FUND II LLC; TIMNATH LANDS LLC; RAWAH RESOURCES LLC; THUNDER RIDGE RESOURCES LLC; TRG OIL AND GAS; J. GALE MOODY; VALERIE MOODY; AND ALASKAN OIL AND RESOURCES, LLC,	)	Adversary Proceeding
Plaintiffs,	)	Adv. Proc. No. 20-50963 (CSS)
v.	)	**Re: D.I. 24**
EXTRACTION OIL & GAS, INC.,	)	
Defendant.	)	

DEFENDANT'S MOTION TO DISMISS THE SECOND AMENDED COMPLAINT

[1] The Reorganized Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Extraction Oil & Gas, Inc. (3923); 7N, LLC (4912); 8 North, LLC (0904); Axis Exploration, LLC (8170); Extraction Finance Corp. (7117); Mountaintop Minerals, LLC (7256); Northwest Corridor Holdings, LLC (9353); Table Mountain Resources, LLC (5070); XOG Services, LLC (6915); and XTR Midstream, LLC (5624). The location of the Reorganized Debtors' principal place of business is 370 17th Street, Suite 5300, Denver, Colorado 80202.

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1. Pursuant to Rule 12 of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding under Rules 7001 and 7012 of the Federal Rules of Bankruptcy Procedure (the Bankruptcy Rules"), Extraction Oil & Gas, Inc. ("Extraction" or "Defendant") moves for dismissal of the *Second Amended Complaint* [D.I. 24].

2. Extraction requests that this Court enter an order, substantially in the form attached hereto, dismissing various claims in the *Second Amended Complaint* for failure to state a claim upon which relief can be granted, and granting Extraction such other and further relief as is just and proper.

3. The reasons for the relief requested herein are set forth in the accompanying *Brief in Support of Defendant's Motion to Dismiss Second Amended Complaint* which is being filed concurrently herewith and is incorporated herein by reference.

4. Pursuant to Rule 7012(b) of the Bankruptcy Rules and Rule 7012-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware, the Defendant consents to the entry of a final order or judgment on the Motion to Dismiss the Second Amended Complaint by this Court if it is determined that the Court, absent consent of the parties, cannot enter a final order or judgment consistent with Article III of the United States Constitution.

WHEREFORE, Defendant respectfully requests that the Court enter the proposed order, substantially in the form attached hereto as **Exhibit A**, granting the Motion to Dismiss the Second Amended Complaint and awarding such other and further relief as the Court deems just and proper.

Dated: February 2, 2021
Wilmington, Delaware

/s/ Stephen B. Gerald

WHITEFORD, TAYLOR & PRESTON LLC[2]
Marc R. Abrams (DE No. 955)
Richard W. Riley (DE No. 4052)
Stephen B. Gerald (DE No. 5857)
The Renaissance Centre
405 North King Street, Suite 500
Wilmington, Delaware 19801
Telephone: (302) 353-4144
Facsimile: (302) 661-7950
Email: mabrams@wtplaw.com
rriley@wtplaw.com
sgerald@wtplaw.com

- and -

KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
Christopher Marcus, P.C. (admitted *pro hac vice*)
Allyson Smith Weinhouse (admitted *pro hac vice*)
Ciara Foster (admitted *pro hac vice*)
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: christopher.marcus@kirkland.com
allyson.smith@kirkland.com
ciara.foster@kirkland.com

- and-

Anna Rotman, P.C. (admitted *pro hac vice*)
Kenneth Young (admitted *pro hac vice*)
609 Main Street
Houston, TX 77002
Telephone: (713) 836-3600
Facsimile: (713) 836-3601
Email: anna.rotman@kirkland.com
kenneth.young@kirkland.com

Co-Counsel to Reorganized Debtors

[2] Whiteford, Taylor & Preston LLC operates as Whiteford Taylor & Preston L.L.P. in jurisdictions outside of Delaware.

EXHIBIT A

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FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
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Reorganized Debtors.	)	(Jointly Administered)

ANNETTE LEAZER; TOM LEAZER; GORDON NISWENDER; JOY NISWENDER; H.L. WILLETT ESTATE; SAGLIO ENERGY LLC; OVERLAND OIL & GAS ADVISORY LLC; OVERLAND MINERALS AND ROYALTIES LLC; OVERLAND ENERGY PARTNERS FUND I LLC; OVERLAND ENERGY PARTNERS FUND II LLC; J A INVESTMENTS; BRIGHTON SOUTH, LLC; ATOMIC CAPITAL MINERALS, LLC; ACM FUND II LLC; TIMNATH LANDS LLC; RAWAH RESOURCES LLC; THUNDER RIDGE RESOURCES LLC; TRG OIL AND GAS; J. GALE MOODY; VALERIE MOODY; AND ALASKAN OIL AND RESOURCES, LLC,	)	Adversary Proceeding
Plaintiffs,	)	Adv. Proc. No. 20-50963 (CSS)
v.	)	**Re: D.I. 24**
EXTRACTION OIL & GAS, INC.,	)	
Defendant.	)	

[PROPOSED] ORDER GRANTING DEFENDANT'S MOTION TO DISMISS THE SECOND AMENDED COMPLAINT

[1] The Reorganized Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Extraction Oil & Gas, Inc. (3923); 7N, LLC (4912); 8 North, LLC (0904); Axis Exploration, LLC (8170); Extraction Finance Corp. (7117); Mountaintop Minerals, LLC (7256); Northwest Corridor Holdings, LLC (9353); Table Mountain Resources, LLC (5070); XOG Services, LLC (6915); and XTR Midstream, LLC (5624). The location of the Reorganized Debtors' principal place of business is 370 17th Street, Suite 5300, Denver, Colorado 80202.

This matter having come before this Court on Defendant's Motion to Dismiss the Second Amended Complaint (the "Motion"); this Court having reviewed the Motion; this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference, dated February 29, 2012; this Court having found this is a core proceeding under 28 U.S.C. § 157(b)(2); this Court having found it may enter a final order consistent with Article III of the United States Constitution; this Court having found that venue of this proceeding and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409; this Court having found that the Defendant's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; this Court having reviewed the Motion and the memorandum in support, and having heard the statements in support of the relief requested therein at a hearing before this Court; this Court having determined that the legal and factual bases set forth in the Motion and the memorandum in support and at the hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**:

1. Defendant's Motion is **GRANTED**.
2. Plaintiffs' fraud claims (Count Three) are dismissed with prejudice.
3. Plaintiffs' breach of implied covenants claims (Count Six) are dismissed with prejudice.
4. Plaintiffs' conversion claims (Counts Seven and Eight) are dismissed with prejudice.
5. Plaintiffs' constructive trust claims (Count Nine) are dismissed with prejudice.
6. Plaintiffs' unjust enrichment claims (Count Ten) are dismissed with prejudice.
7. Plaintiffs' accounting claims (Count Eleven) are dismissed with prejudice.
8. Plaintiffs' injunction claims (Counts Twelve, Thirteen, Fourteen, and Fifteen) are dismissed with prejudice.

9. The claims of the new plaintiff, Tom Leazer, are dismissed.

10. The improperly asserted breach of contract claims (Count Five) are dismissed with prejudice.

11. This Court shall retain jurisdiction with respect to all matters arising from or relating to the implementation of this Order.