

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

JACOB SHEATSLEY, *on behalf of himself and
all others similarly situated*

PLAINTIFF

vs.

CASE NO. 4:11-cv-00353-JLH

CHESAPEAKE OPERATING, INC., and
CLARITA OPERATING, LLC

DEFENDANTS

MOTION FOR VOLUNTARY DISMISSAL

COMES NOW Plaintiff Jacob Sheatsley (“Plaintiff”), by and through his counsel, and hereby respectfully request that the above captioned matter be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) without prejudice. In support thereof, Plaintiff states:

1. Plaintiff’s case is currently one of five related class action cases pending before your Honor. All of these related actions generally allege that the Defendants operated certain injection wells in their gas-drilling operations within certain Arkansas counties that caused earthquakes and resulting damages to Plaintiffs and members of an identical putative class of Arkansas citizens. The pending cases in addition to Plaintiffs (“Additional Actions”) are as follows:

Abbreviated Case Name

Case No.

Frey, et al. v. BHP Billiton Petroleum (Arkansas) Inc., et al.,

4:11-cv-0475-JLH

Hearn v. BHP Billiton Petroleum (Arkansas) Inc., et al.,

4:11-cv-0474-JLH

Lane, et al. v. BHP Billiton Petroleum (Arkansas) Inc., et al.,

4:11-cv-0477-JLH

Palmer, et al. v. BHP Billiton Petroleum (Arkansas) Inc., et al.,

4:11-cv-0476-JLH

2. As with Plaintiff's case, each of the Additional Actions were originally filed in Arkansas state court and subsequently removed by Defendants.¹

3. The Additional Actions also name the correct Defendants inclusive of the subsidiary entities of BHP Billiton Petroleum which purchased Chesapeake Operating, Inc.'s Fayetteville Shale assets subsequent to the filing of Plaintiff's class action complaint. In an effort to streamline these cases and further judicial economy, Plaintiff wishes to dismiss his action in favor of the other related Additional Actions naming the proper Defendants and alleging the same common theories of liability and damages under Arkansas common law on behalf of an identical class.

4. Plaintiff has not displayed any lack of diligence in prosecuting his action. Correspondingly, neither Plaintiff nor any of the putative class members will be prejudiced by Plaintiff's voluntary dismissal given the status of the pending and related Additional Actions. Nor will Defendants be prejudiced as Plaintiff's case and the Additional Actions are all in their early stages of commencement. All of these related cases are in the same pre-discovery procedural posture and no dispositive motions have been filed in any of them.

5. Plaintiff has attempted in good faith to confer with counsel for the Defendants regarding this motion, but defense counsel has failed to respond prior to the filing of this motion.

WHEREFORE, Plaintiff respectfully requests that his Motion for Voluntary Dismissal be GRANTED and his action dismissed without prejudice.

¹ While Plaintiff respectfully requests that this Court grant his Motion, he is in no way conceding that the removal of his case by Defendants was appropriate in this instance. Plaintiff reserves all rights in relation thereto.

DATED: June 29, 2011

Respectfully Submitted,

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/s/ Scott E. Poynter

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CERTIFICATE OF SERVICE

I, Scott E. Poynter, attorney for the Plaintiff, do hereby certify that a copy of the above was served via ECF and Certified U.S. Mail to the following counsel on this 29th day of June, 2011.

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