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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

20 JOHN MELLOR, on behalf of himself and all
21 others similarly situated,

Plaintiff,

v.

22 PERMIAN RESOURCES CORP. f/k/a
23 CENTENNIAL RESOURCE DEVELOPMENT,
24 INC.; CHESAPEAKE ENERGY
25 CORPORATION; CONTINENTAL
26 RESOURCES INC.; DIAMONDBACK
27 ENERGY, INC.; EOG RESOURCES, INC.;
28 HESS CORPORATION; OCCIDENTAL
PETROLEUM CORPORATION; and PIONEER
NATURAL RESOURCES COMPANY,

Defendants.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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1 Plaintiff John Mellor (“Mellor” or “Plaintiff”), individually and on behalf of the Class
2 defined below, bring this antitrust class action to recover treble damages, injunctive relief, and
3 any other relief as appropriate, based on violations of the Sherman Act and various state antitrust
4 and consumer protection laws by Permian Resources Corporation f/k/a Centennial Resource
5 Development, Inc.; Chesapeake Energy Corporation; Continental Resources Inc.; Diamondback
6 Energy, Inc.; EOG Resources, Inc.; Hess Corporation; Occidental Petroleum Corporation; and
7 Pioneer Natural Resources Company (collectively “Defendants”), and allege, upon his personal
8 knowledge as to himself and his own actions, and otherwise upon information and belief,
9 including the investigation of counsel, as follows:

10 NATURE OF THE ACTION

11 1. This class action arises from Defendants’ conspiracy to coordinate, and ultimately
12 constrain, domestic shale oil production, which has had the purpose and effect of fixing, raising,
13 and maintaining the price of crude oil—and, as a direct result, the price of gasoline and diesel
14 purchased for commercial use by marine vessels at fuel docks (collectively, “Commercial Marine
15 Fuel”)—in and throughout the United States.

16 2. Shale oil, also called “tight oil,” is a type of crude oil extracted from sedimentary
17 shale rock formations, typically using unconventional techniques such as horizontal drilling or
18 hydraulic fracturing (or “fracking”). Today, shale oil comprises approximately two-thirds of all
19 crude oil produced onshore in the United States.

20 3. Refineries purchase shale oil and other crude oil extracted from traditional drilling
21 methods, co-mingle them, then refine the crude oil into gasoline, diesel, and other petroleum-
22 based products—including Commercial Marine Fuel, which is purchased from fuel docks that are
23 often located on municipality-owned docks and are generally serviced by different companies
24 than those that service and/or operate terrestrial gas stations. Accordingly, Defendants’
25 conspiracy to fix price of crude oil constitutes a conspiracy to fix the price of Marine Fuel, as
26 well.

27 4. Domestic independent shale oil producers (“independents”) are companies that
28 mostly focus on the exploration, development, and production of shale resources in the United

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1 States. Independents are distinct from large, vertically integrated energy companies such as
2 ExxonMobil and Chevron (commonly referred to as the “supermajors”), that have diverse global
3 operations encompassing various types of energy sources.

4 5. Defendants are among the largest independents focusing on domestic shale oil
5 production. Traditionally, they acted as “swing producers” in the global crude oil market because
6 of their ability to quickly adjust shale oil production levels in response to changing market
7 conditions, thus “swinging” the price of crude oil.

8 6. Following years of relatively lower prices driven by the “U.S. Shale Boom” and
9 increasing volumes and efficiencies in producing shale oil, crude oil prices in the United States
10 began to rise dramatically in January 2021 and continuing to the present.

11 7. While industry analysts (and basic principles of supply and demand) anticipated
12 that Defendants would increase shale oil production to take advantage of the rising prices,
13 Defendants instead collectively decided not to increase their shale oil production. As a result,
14 crude oil prices, and thus Commercial Marine Fuel prices, have remained high.

15 8. Defendants’ agreement to refrain from increasing their shale oil production was
16 part of a larger agreement with the Organization of the Petroleum Exporting Countries
17 (“OPEC”)—the international cartel of the largest oil-producing nations, whose stated purpose is
18 to manipulate global oil prices by coordinating production levels amongst its members.¹

19 9. Between at least 2017 and 2023, Defendants and OPEC met and communicated
20 regularly with one another to exchange confidential production and capacity information, and to
21 coordinate their collective crude oil output in response to then-prevailing market conditions.
22 Afterwards, Defendants publicly confirmed these meetings and the fact that they and OPEC
23 discussed production strategies, future investment plans, and price targets in unusually candid
24 terms.

25 10. For example, one U.S. shale executive—though he or she asked to remain
26 anonymous—nonetheless bragged to Reuters about how, after meeting with OPEC and “having
27

28 ¹ <https://www.cfr.org/background/opec-changing-world> (last accessed 1/25/24).

1 an open dialogue on some of the things that are going on in the U.S. shale revolution, U.S. oil
 2 production and the associated balance of what’s going on in our industry,” that U.S. shale oil
 3 producers “*now have a seat the table on [oil] pricing.*”²

4 11. OPEC has been even more brazen. In an official OPEC bulletin issued after OPEC
 5 Secretary General Mohammed Barkindo sat on a panel with Defendant Hess Oil’s CEO John
 6 Hess, Secretary Barkindo wrote: “*We have to continue to collaborate. It’s one industry. It’s a*
 7 *global industry, and I think our colleagues in the U.S. are on the same page with us and we*
 8 *will work together to exchange views.*”³

9 12. While crude oil supply and prices remained relatively stable prior to the COVID-
 10 19 pandemic, demand and prices dropped precipitously at the beginning of the pandemic, only to
 11 begin climbing again by early 2021. When Russia invaded Ukraine in February 2022, the supply
 12 chain disruption and the loss of crude oil supplied by Russia (who, due to the sanctions imposed
 13 upon it by other countries, effectively eliminated its crude oil supplies from the global market)
 14 sent prices even higher, creating a ripe environment for swing producers such as the Defendants
 15 to quickly increase production and aggressively capture market share.

16 13. Instead, the Defendants—in a marked departure from their historical practices and
 17 directly contrary to each of their individual, unilateral self-interests—limited their domestic shale
 18 oil production growth. But for the conspiracy alleged herein, no economically rational
 19 independent would have acted or refused to act in this manner.

20 14. Defendants’ conspiracy, which limited each of their respective shale oil production
 21 volumes, had the purpose and effect of fixing, stabilizing, or maintaining crude oil prices—and,
 22 in turn, Commercial Marine Fuel prices— at artificially inflated levels throughout the United
 23 States during the Class Period.

24 15. The cartel formed by Defendants’ conspiracy is a per se unlawful restraint of trade
 25 under not only federal antitrust law but numerous state antitrust, unfair competition, and

26 ² <https://www.reuters.com/article/us-oil-opec-usa-idUSKCN1GB2KP/> (last accessed 1/25/24).

27 ³ <https://www.cnbc.com/2019/01/23/trump-blasted-opec-hess-ceo-says-the-group-deserves-praise.html> (last accessed 1/25/24).
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1 consumer protection laws. Plaintiff and the members of the proposed Classes suffered substantial
2 harm by virtue of the supracompetitive prices they paid for Commercial Marine Fuel as a direct
3 and proximate result of the cartel and the resulting agreement to constrain domestic shale oil
4 production. Plaintiff brings this suit to recover those losses and to enjoin Defendants' conduct to
5 hopefully prevent Defendants from harming any other Commercial Marine Fuel consumers in the
6 future.

7 PARTIES

8 **A. Plaintiff**

9 16. Plaintiff John Mellor is the sole proprietor of a commercial fishing business and
10 the owner and operator of the commercial fishing vessel High Hopes, which is docked at San
11 Francisco's Pier 45, commonly known throughout the world as Fishermen's Wharf. For decades
12 John Mellor has been engaged full time in the business of commercial fishing and crabbing in
13 California waters and beyond. Plaintiff John Mellor purchased Commercial Marine Fuel at fuel
14 docks in California, during the Class Period and paid higher prices for those purchases as a result
15 of the allegations alleged in this Complaint.

16 **B. Defendants**

17 17. Defendant Permian Resources Corporation ("PRC" or "Centennial") is a Delaware
18 corporation with its principal place of business in Midland, Texas. It was formed in 2022 in a
19 transaction between Colgate Energy Partners III, LLC and Centennial Resource Development,
20 Inc. and, during the Class Period, conducted business and was primarily known as "Centennial."
21 It is a major producer of crude oil from shale oil formations in New Mexico and Texas, which is
22 refined into Commercial Marine Fuel and sold throughout the United States. PRC's common
23 stock is listed on the New York Stock Exchange under the ticker symbol "PR."

24 18. Defendant Chesapeake Energy Corporation ("Chesapeake") is an Oklahoma
25 corporation with its principal place of business in Oklahoma City, Oklahoma. Chesapeake is a
26 major producer of crude oil from shale oil formations, largely in Pennsylvania and Louisiana,
27 which is refined into Commercial Marine Fuel and sold throughout the United States. Its
28

1 common stock is listed on the NASDAQ Stock Market under the ticker symbols “CHK,”
2 “CHKEL,” “CHKEW,” and “CHKEZ.”

3 19. Defendant Continental Resources Inc. (“Continental”) is an Oklahoma corporation
4 with its principal place of business in Oklahoma City, Oklahoma. Continental is a major producer
5 of crude oil from shale oil formations, largely in Oklahoma, Montana, North Dakota, Texas, and
6 Wyoming, which is refined into Commercial Marine Fuel and sold throughout the United States.
7 Its common stock is listed on the New York Stock Exchange under the ticker symbol “CLR.”

8 20. Defendant Diamondback Energy, Inc. (“Diamondback”) is a Delaware corporation
9 with its principal place of business in Midland, Texas. Diamondback is a major producer of crude
10 oil from shale oil formations in Texas, which is refined into Commercial Marine Fuel and sold
11 throughout the United States. Its common stock is listed on the NASDAQ Stock Market under the
12 ticker symbol “FANG.”

13 21. Defendant EOG Resources, Inc. (“EOG”) is a Delaware corporation with its
14 principal place of business in Houston, Texas. EOG is a major producer of crude oil from shale
15 oil formations in Colorado, New Mexico, New York, North Dakota, Oklahoma, Pennsylvania,
16 Texas, and Wyoming, which is refined into Commercial Marine Fuel and sold throughout the
17 United States. Its common stock is listed on the New York Stock Exchange under the ticker
18 symbol “EOG.”

19 22. Defendant Hess Corporation (“Hess”) is a Delaware corporation with its principal
20 place of business in New York, New York. Hess is a major producer of crude oil from shale oil
21 formations in North Dakota, which is refined into Commercial Marine Fuel and sold throughout
22 the United States. Its common stock is listed on the New York Stock Exchange under the ticker
23 symbol “HES.”

24 23. Defendant Occidental Petroleum Corporation (“Occidental”) is a Delaware
25 corporation with its principal place of business in Houston, Texas. Occidental is a major producer
26 of crude oil from shale oil formations in Colorado, New Mexico, and Texas, which is refined into
27 Commercial Marine Fuel and sold throughout the United States. Its common stock and warrants
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1 are listed on the New York Stock Exchange under the ticker symbols “OXY” and “OXY WS,”
2 respectively.

3 24. Defendant Pioneer Natural Resources Company (“Pioneer”) is a Delaware
4 corporation with its principal place of business in Irving, Texas. Pioneer is a major producer of
5 crude oil from shale oil formations in Texas, which is refined into Commercial Marine Fuel and
6 sold throughout the United States. Its common stock is listed on the New York Stock Exchange
7 under the ticker symbol “PDX.”

8 25. The term “Defendants,” as used herein, refers to and includes each of the named
9 Defendants—Centennial, Chesapeake, Continental, Diamondback, EOG, Hess, Occidental, and
10 Pioneer—as well as their predecessors, successors, parents, wholly owned or controlled
11 subsidiaries or affiliates, employees, officers, or agents. Though each Defendant may have
12 predecessors, successors, parents, subsidiaries and affiliates with distinct corporate forms, each
13 Defendant’s officers, employees, and agents routinely refer to the Defendant and its subsidiaries
14 and affiliates collectively without distinguishing amongst their related corporate entities.

15 26. Where an action is attributed to “Defendants,” unless stated otherwise, that action
16 is alleged to have been taken by each of Centennial, Chesapeake, Continental, Diamondback,
17 EOG, Hess, Occidental, and Pioneer.

18 **C. Agents and Co-Conspirators**

19 27. Various co-conspirators, some known and some unknown, willingly participated in
20 and acted in furtherance of the alleged conspiracy.

21 28. Each Defendant was a co-conspirator with the other Defendants and committed
22 overt acts in furtherance of the conspiracy alleged herein in the United States and in this District.

23 29. Defendants participated in the alleged conspiracy through the acts of their officers,
24 directors, agents, partners, employees, representatives, affiliates, subsidiaries, and companies they
25 acquired through mergers and acquisitions, for whom they are liable.

26 30. At all relevant times, other known and unknown corporations, individuals, and
27 entities willingly conspired with Defendants in their unlawful and illegal conduct. Numerous
28 individuals and entities participated actively during the course of, and in furtherance of, the

1 scheme described herein. The individuals and entities acted in concert through, amongst other
2 things, joint ventures, and by acting as agents for principals in order to advance the objectives of
3 the scheme to benefit Defendants and themselves through the manipulation of shale oil
4 production and crude oil, and also Commercial Marine Fuel, prices.

5 31. Whenever reference is made to an act of any organization, corporation, or other
6 business entity, the allegation means that the entity engaged in the act by or through its officers,
7 directors, agents, partners, employees, or representatives while they were actively engaged in the
8 management, direction, control, or transaction of the corporation's business or affairs.

9 **JURISDICTION, VENUE, AND COMMERCE**

10 32. This action arises under Section 1 of the Sherman Act (15 U.S.C. §1), and Section
11 16 of the Clayton Act (15 U.S.C. §26), as well as the antitrust, unfair competition, and consumer
12 protection laws of various states. The Sherman Act claim is for injunctive relief, costs of suit, and
13 reasonable attorneys' fees; the various state claims seek to recover injunctive relief, compensatory
14 damages, treble damages, costs of suit, and reasonable attorneys' fees.

15 33. This Court has subject matter jurisdiction pursuant to Section 16 of the Clayton
16 Act, 15 U.S.C. § 26, and 28 U.S.C. §§ 1331, 1333(d), 1337(a), and 1367.

17 34. This Court has diversity jurisdiction over this action under 28 U.S.C. § 1332(d)
18 because this is a class action wherein the amount in controversy exceeds the sum or value of \$5
19 million, exclusive of interest and costs, there are more than 100 members in the proposed class,
20 and Plaintiff is a citizen of California, thus Plaintiff is diverse from at least one of the Defendants,
21 all of whom are either incorporated in Delaware or Oklahoma and whom have their principal
22 places of business in New York, Oklahoma, or Texas.

23 35. This Court also has personal jurisdiction over all Defendants, and Venue in this
24 District is proper, under the combination of 15 U.S.C. §22 and 28 U.S.C. §1391(b), (c), and (d). A
25 substantial part of the events or omissions giving rise to the claim occurred in this District. On
26 information and belief, each Defendant resides, transacts business, is found, or has an agent in
27 this District.
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1 36. Defendants’ activities were within the flow of, and were intended to and did have a
2 substantial effect on, interstate commerce of the United States. Defendants’ products and services
3 are sold in the flow of interstate commerce.

4 37. By reason of the unlawful activities alleged herein, Defendants’ unlawful activities
5 substantially affected commerce throughout the United States, causing injury to Plaintiff and the
6 geographically dispersed class members. Defendants, directly and through their agents, engaged
7 in activities affecting all states.

8 38. Defendants’ conspiracy, wrongful anticompetitive conduct, and substantial
9 anticompetitive effects described herein proximately caused injury to Plaintiff and members of
10 the proposed Classes.

11 **FACTUAL ALLEGATIONS**

12 **A. The Organization of the Petroleum Exporting Countries (“OPEC”) and Its**
13 **Historical Control Over Crude Oil Prices**

14 39. OPEC is an intergovernmental organization comprising twelve oil-exporting
15 countries—Algeria, Congo, Equatorial Guinea, Gabon, Iran, Iraq, Kuwait, Libya, Nigeria, Saudi
16 Arabia, United Arab Emirates, and Venezuela—that “coordinates and unifies the petroleum
17 policies of its Member Countries.”⁴ One of its stated objectives is “to secure fair and stable prices
18 for petroleum producers.”⁵ In reality, OPEC is an open and notorious cartel that manipulates
19 global oil prices by coordinating production levels amongst its members.⁶

20 40. OPEC and its member countries account for 40% of the world’s oil production⁷
21 and 80% of its proven current oil reserves.⁸

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26 ⁴ https://www.opec.org/opec_web/en/17.htm (last accessed 1/25/24).

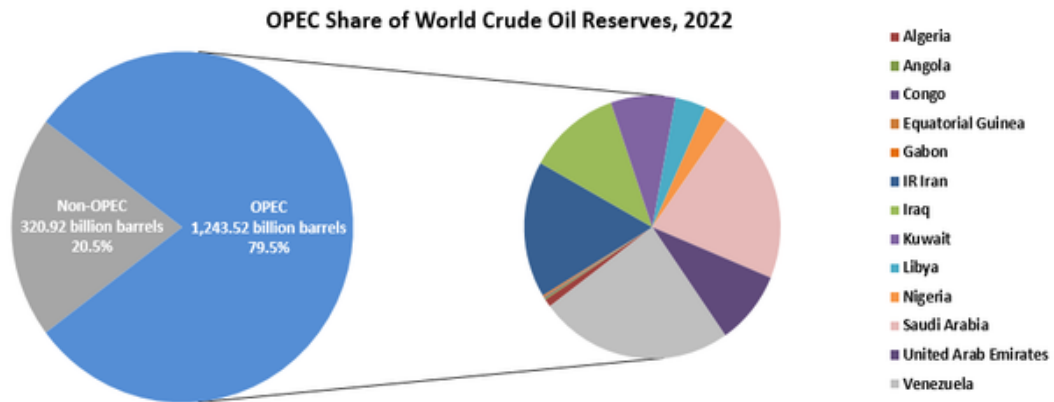
27 ⁵ https://www.opec.org/opec_web/en/about_us/24.htm (last accessed 1/25/24).

28 ⁶ <https://www.cfr.org/backgrounder/opec-changing-world> (last accessed 1/25/24).

⁷ <https://www.eia.gov/finance/markets/crudeoil/supply-opec.php> (last accessed 1/25/24).

⁸ https://www.opec.org/opec_web/en/data_graphs/330.htm (last accessed 1/25/24).

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OPEC proven crude oil reserves, at end 2022 (billion barrels, OPEC share)

Venezuela	303.22	24.4%	United Arab Emirates	113.00	9.1%	Algeria	12.20	1.0%	Equatorial Guinea	1.10	0.1%
Saudi Arabia	267.19	21.5%	Kuwait	101.50	8.2%	Angola	2.55	0.2%			
IR Iran	208.60	16.8%	Libya	48.36	3.9%	Gabon	2.00	0.2%			
Iraq	145.02	11.7%	Nigeria	36.97	3.0%	Congo	1.81	0.1%			

41. As a result, OPEC has historically been able to exert market power over global crude oil prices simply by coordinating its members’ respective production levels. In addition, non-member nations have also followed OPEC’s lead in increasing or decreasing production levels to benefit from the crude oil price targeted by OPEC.

42. Historically, Saudi Arabia has acted as OPEC’s, and thus the world’s, “swing” producer—i.e., the producer best able to rapidly increase crude oil production levels in response to changing market conditions. This is because Saudi Arabia has generally had the largest production capacity, and it has maintained the largest margin of excess capacity.⁹ Thus, Saudi Arabia has traditionally been the world’s de facto price leader to whom not only OPEC members, but also non-OPEC members, look for guidance.

43. In late 2016, OPEC expanded its cartel by forming “OPEC+” which included ten additional oil-producing nations—Azerbaijan, Kingdom of Bahrain, Brunei Darussalam, Kazakhstan, Malaysia, Mexico, Sultanate of Oman, the Russian Federation, Republic of Sudan, and Republic of South Sudan.¹⁰ The reasons for this expansion: increases in U.S. crude oil production.

⁹ <https://www.iea.org/reports/oil-market-report-january-2024#> (last accessed 1/25/24).

¹⁰ https://www.opec.org/opec_web/static_files_project/media/downloads/publications/Declaration%20of%20Cooperation.pdf (last accessed 1/25/24).

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1 **B. Fracking, U.S. Shale Oil Production, and a “New Oil Order.”**

2 44. While the presence of hydrocarbons in shale formations was known for quite some
3 time, it was not until the early 2000s when innovations in horizontal drilling and fracking made it
4 economically viable to substantially increase output from shale and other tight rock formations.¹¹

5 45. These technologies were first applied to Texas’s Barnett shale formation in 2002
6 with phenomenal success.¹² Predictably, other U.S. companies soon followed suit and, between
7 2008 and 2015, the U.S. saw its fastest increase in oil production capacity in history, reversing a
8 35-year trend of declining oil production.¹³

9 46. These advancements and the resulting boom in U.S. shale oil production posed a
10 unique problem for OPEC. Unlike traditional drilling projects that required substantial
11 investments of time and money before production would begin but lasted for decades, shale oil
12 wells required smaller capital commitments and became operational in much shorter time frames.
13 This enabled independent U.S. shale oil producers to be more responsive to real-time market
14 conditions and sudden changes in oil prices than the “supermajor” producers using more
15 traditional drilling methods.

16 47. As a result, these smaller, independent U.S. shale oil producers had the
17 unprecedented ability to challenge OPEC’s stranglehold on crude oil prices because—within
18 months of crude oil reaching economically viable (*i.e.*, “breakeven”) price levels—they could
19 ramp up production to take advantage of the higher prices. Thus, these independents could
20 quickly supply the market whenever OPEC implemented production quotas, essentially “free
21 riding” on OPEC’s efforts to extract monopoly rents by constraining crude oil supplies.

22 48. Moreover, unlike OPEC (who purports to benefit from sovereign immunity to the
23 Sherman Act), these independent shale oil producers are subject to U.S. antitrust laws. Therefore,

24 _____
25 ¹¹ <https://www.reuters.com/markets/commodities/is-us-shale-oil-revolution-over-kemp-2022-11-22/> (last accessed 1/25/24).

26 ¹² <https://www.dallasfed.org/~media/documents/research/swe/2010/swe1003c.pdf> (last accessed 1/25/24).

27 ¹³ <https://www.forbes.com/sites/rpapier/2017/04/21/how-the-shale-boom-turned-the-world-upside-down/> (last accessed 1/25/24).
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1 these relatively smaller crude oil producers—though their combined production levels rivaled
2 some of the larger OPEC member nations—did not have the ability to coordinate production
3 levels and prices like the OPEC cartel. Instead, these independents were actually forced to
4 compete with one another, resulting in lower prices not only for crude oil, but also derivative
5 petroleum products like Commercial Marine Fuel.

6 49. These events, dubbed “Cowboyistan,” ushered in an “American Oil Boom”
7 between approximately 2010 and 2015,¹⁴ and a “new oil order” emerged wherein aggressive
8 competition from independent U.S. shale producers usurped Saudi Arabia’s role as the “swing”
9 producer, thus eroding OPEC’s cartel set crude oil prices.

10 **C. 2014-2016: The “OPEC Price War.”**

11 50. OPEC member nations—whose GDPs and, in some instances, currencies rely
12 heavily on crude oil prices—refused to willingly cede control over global crude oil prices to U.S.
13 shale oil producers. Instead, OPEC decided to leverage its control over the cheapest-to-produce
14 oil in the world to drive the more expensively produced U.S. shale oil out of the market.

15 51. Accordingly, in the middle of 2014, OPEC made the strategic, long-term decision
16 to push crude oil prices to a level just low enough to render U.S. shale oil production no longer
17 economically viable while also ensuring its members were satisfied.

18 52. This marked the beginning of a two-year period known as the “OPEC Price War”
19 wherein the price of crude oil plummeted as both OPEC member nations and U.S. shale oil
20 producers flooded the market with crude oil at levels not seen in decades.

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27 ¹⁴ [https://www.forbes.com/sites/christopherhelman/2015/03/09/welcome-to-cowboyistan-
28 fracking-king-harold-hamms-plan-for-u-s-domination-of-global-oil/](https://www.forbes.com/sites/christopherhelman/2015/03/09/welcome-to-cowboyistan-fracking-king-harold-hamms-plan-for-u-s-domination-of-global-oil/) (last accessed 1/25/24).

1 Figure 1: Crude Oil Spot Prices (2010 -2016)



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53. During the same period, prices for Commercial Marine Fuel also plummeted.

Figure 2: Weekly Retail Gasoline and Diesel Prices (208 -2024)



54. Despite OPEC’s best efforts to price them into oblivion, U.S. shale oil producers persisted. As crude oil prices dropped, shale oil producers managed to find ways to cut costs and increase productivity, driving breakeven points—*i.e.*, the price at which it still makes sense to continue drilling—lower and lower. At the start of the OPEC Price War, the breakeven point was \$82/barrel; by 2018, the breakeven price was \$47/barrel; and by 2021, the breakeven price was \$37/barrel.¹⁵

55. By implementing these cost-cutting measures and focusing on the most productive shale oil plays, U.S. shale oil producers were able to remain competitive even in the lower-price environment. Thus, many U.S. shale oil producers—including Defendants—continued to

¹⁵ <https://www.rogtecmagazine.com/rystad-energy-as-falling-costs-make-new-oil-cheaper-to-produce-climate-policies-may-fail-unless-they-target-demand/> (last accessed 1/25/24).

1 maintain production levels despite the lower prices caused by the OPEC Price War. Knowing that
2 OPEC member nations, whose economies relied heavily on oil revenues, were similarly hurting,
3 U.S. shale oil producers simply waited, ready to pounce whenever prices improved. As Defendant
4 Pioneer’s CEO promised, U.S. shale oil producers were poised and ready to respond by ramping
5 up production whenever oil prices moved above \$60/barrel.¹⁶

6 56. Nonetheless, some smaller players in the U.S. shale oil industry were driven out of
7 business or merged with larger players. Thus, the OPEC Price War did not kill the U.S. shale oil
8 industry, it simply consolidated it and rallied the survivors behind a shared mission to “hold the
9 line” in the face of a shared adversary.

10 **D. Defendants Are Given “A Seat at the Table on Pricing.”**

11 57. Perhaps seeing the writing on the wall and accepting the fact that its efforts to
12 price U.S. shale oil producers out of the market had failed, OPEC took a new approach.

13 58. First, it expanded its reach by adding 10 additional member nations to form
14 “OPEC+.” This reduced the number of OPEC’s competitors and increased its global market
15 share.

16 59. Second, OPEC initiated a multi-year campaign to not only orchestrate a ceasefire,
17 but to bring “Cowboyistan” into the fold and make them members of the cartel.

18 60. Luckily for OPEC, U.S. shale oil producers were open to the idea of joining the
19 cartel. For example, as reported by MarketWatch on September 8, 2016, Defendant Continental’s
20 CEO, Harold Hamm, said it was “‘high time’ for Russia and [OPEC] to forge a pact that would
21 put an end to [the] slide in crude oil prices,” further adding that “major crude-oil producers need
22 to settle on a plan to stabilize oil prices sooner than later.”¹⁷ Such comments were a clear signal
23 that U.S. shale oil producers like Defendant Continental were ready and willing to play ball with
24 OPEC.

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26 ¹⁶ https://www.washingtonpost.com/business/economy/is-the-oil-world-big-enough-for-two-swing-producers/2016/09/29/ce4e96f0-85f7-11e6-a3ef-f35afb41797f_story.html (last accessed 1/25/24).

27 ¹⁷ <https://www.marketwatch.com/story/trumps-potential-energy-czar-says-its-high-time-for-an-opec-pact-to-freeze-output-2016-09-08> (last accessed 1/25/24).
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1 61. Shortly thereafter, sometime in early 2017, Defendants and members of OPEC
2 began having meetings and dinners together, including at industry meetings such as the
3 CERAWeek Conference, an energy-focused event held annually in Houston, Texas.¹⁸

4 62. During that 2017 CERAWeek Conference, which was held March 6-10, “[OPEC’s
5 General Secretary Mohammed] Barkindo dined with about two dozen U.S. shale executives,”
6 including at least Scott Sheffield of Defendant Pioneer, John Hess of Defendant Hess, Doug
7 Lawler of Defendant Chesapeake, and Tim Leach of Concho Resources Inc.¹⁹ “The unusual 2017
8 dinner gathering opened a communication channel between the shale companies and OPEC
9 countries.”²⁰

10 63. Right around that same time, on March 7, 2017, Scott Sheffield of Defendant
11 Pioneer told Bloomberg that, I’m seeing a series of meetings where OPEC is reaching out and
12 spending more time with U.S. independents than I’ve seen over my entire career. I think the new
13 thought process within OPEC is that there are other places around the world that can supply crude
14 around the world, and they want to definitely have an understanding of how fast it can come
15 on.”²¹ He further admitted to attending what was described as a “Dinner Détente” and while he
16 couldn’t discuss what was said over that dinner, he did say that “[OPEC’s] trying to understand
17 our business model” and “I think they’re trying to understand more about our ability to produce,
18 what the cost structure is and what’s going to happen over the next several years.”²² Sheffield
19 added that, “[i]n return, shale producers are talking with OPEC to learn about the members’
20 thought process towards the price of oil over the next several years, what supplies the different
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23 _____
24 ¹⁸ <https://www.reuters.com/business/energy/ceraweek-oil-prices-soar-us-shale-opec-no-rush-resume-price-war-2022-03-10/> (last accessed 1/25/24).

25 ¹⁹ <https://www.worldoil.com/news/2018/2/27/opec-head-to-meet-u-s-shale-oil-producers-for-dinner-next-week/> (last accessed 1/25/24).

26 ²⁰ *Id.*

27 ²¹ <https://www.bloomberg.com/news/articles/2017-03-07/pioneer-s-sheffield-sees-40-oil-if-opec-doesn-t-extend-cuts> (last accessed 1/25/24).

28 ²² *Id.*

1 members have themselves, and whether inventories are falling.”²³ According to Sheffield, “[this]
2 helps us plan long term.”²⁴

3 64. In another article describing that same dinner meeting, it was reported that,
4 according to the attendees, “[t]he sides agreed in principle that the market should be better
5 balanced and lower inventories would be beneficial to everyone.”²⁵ Attendees further said that
6 “while the shale producers signaled they weren’t ready to give up on the growth they see ahead,
7 OPEC indicated it wants higher prices, even if it means enriching the shale companies.”²⁶
8 According to Defendant Hess’s CEO, “It was a very good exchange of information and views
9 about oil. ... It was a good talk.”²⁷

10 65. Thus, as the participants of this meeting readily acknowledged, U.S. shale oil
11 producers—including some if not all of the Defendants—not only shared competitively sensitive,
12 forward-looking information concerning both production levels and pricing with OPEC, but they
13 expressly agreed to reduce crude oil supplies.

14 66. Shortly after the CERAWeek meeting, Saudi Arabia’s Energy Minister Khalid Al-
15 Falih warned U.S. shale oil producers that if they wanted to collaborate, there would be no “free
16 rides” on OPEC production cuts, and they must instead be ready to pull their weight when the
17 time comes.²⁸ Put another way, OPEC told U.S. shale producers that OPEC expected them to
18 work together and coordinate their production cuts alongside OPEC.

19 67. Later that year, OPEC Secretary General Barkindo told reporters that U.S. shale
20 oil producers were “beginning to ask questions about how to proceed [alongside OPEC] in a more
21 responsible manner.”²⁹ Barkindo explained that he understood, from a meeting with executives of
22 Defendants Hess and Continental during the CERAWeek Conference, that “[t]here is a general

23 *Id.*

24 *Id.*

25 <https://www.bloomberg.com/news/articles/2017-03-07/opec-said-to-break-bread-with-shale-in-rare-show-of-detente> (last accessed 1/25/24).

26 *Id.*

27 *Id.*

28 <https://www.reuters.com/article/idUSKBN16G2TQ/> (last accessed 1/25/24).

29 <https://www.ft.com/content/89ddcf13-f338-315a-99ba-366256c7266a> (last accessed 1/25/24).

1 understanding that this downturn [caused by the price war] was not in the interest of anybody”
 2 and “[a]s much as we felt the pinch so did they.”³⁰

3 68. In March 2018, the following year’s CERAWeek Conference was held. Prior to
 4 that conference, OPEC Secretary General Barkindo, discussing another scheduled dinner with
 5 U.S. shale producers, explained “[i]t’s a fulfillment of our common desire to continue the
 6 dialogue as agreed last year on the sidelines of CERAWeek.”³¹ He said the dinner was arranged
 7 to “further explore the mechanic of achieving our common objective.”³²

8 69. That dinner took place on March 5, 2018 at the Grove restaurant in Houston,
 9 Texas.³³ During that dinner, OPEC Secretary General Barkindo gave a speech that Defendant
 10 Pioneer’s CEO, Time Dove, later described as an exchange of OPEC’s forward-looking views on
 11 the oil market: “his main message was that [OPEC] believe[s] very strongly that demand is going
 12 to be significant moving forward in terms of growth.”³⁴ Defendant Centennial’s CEO, Mark Papa,
 13 characterized the speech as “a statement that everyone will work together to make sure the oil
 14 market is well-supplied and everyone is happy to be working together.”³⁵

15 70. OPEC representatives similarly described the dinner as an exchange of forward-
 16 looking information. For example, OPEC Secretary General Barkindo reported that he and U.S.
 17 shale oil executives “had a very open, frank and lively conversations on a current state of the
 18 cycle and we also compared note[s] from our experiences during these cycles, how we should
 19 proceed going forward. I was very surprised by the high-level of turnout, as well as the interest
 20 they have shown in continuing this energy dialogue.”³⁶

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 22 ³⁰ *Id.*

23 ³¹ <https://www.bloomberg.com/news/articles/2018-02-27/opec-head-to-meet-u-s-shale-oil-producers-for-dinner-next-week> (last accessed 1/25/24).

24 ³² *Id.*

25 ³³ <https://www.reuters.com/article/us-ceraweek-energy-opec-shale-idUSKCN1GJ04H/> (last accessed 1/25/24).

26 ³⁴ *Id.*

27 ³⁵ *Id.*

28 ³⁶

https://www.opec.org/opec_web/static_files_project/media/downloads/publications/OB022019.pdf
 f (last accessed 1/25/24).

1 71. Similarly, Equatorial Guinea’s petroleum minister, Gabriel Mgaga Obiang Lima,
2 told reporters: “The key thing is that information is shared about our projections; it really helps
3 everybody...the important thing is to know how much they [U.S. shale oil producers] are
4 investing and their projections because usually they have good statistics.”³⁷ Lima then revealed
5 the true purpose behind this information exchange: “What we are doing is avoiding volatility,” he
6 said—or, put differently, stabilizing prices by coordinating production.³⁸

7 72. As the CEO of one U.S. shale oil producer who declined to be identified by name
8 told reporters, “Shale has dramatically changed the world’s perception of fossil fuels,” further
9 adding: “We now have a seat at the table on pricing.”³⁹

10 73. Now that Defendants “had a seat at the table,” they began taking a more
11 conciliatory approach with OPEC. Defendant Continental’s CEO, Harold Hamm, attended a
12 board meeting of Saudi Aramco (the oil producer controlled by Saudi Arabia, OPEC’s largest
13 member), agreed to speak at an OPEC event, and reportedly began “asking fellow shale producers
14 to focus more on profitability and less on profligate production.”⁴⁰

15 74. In June 2018, OPEC Secretary General Barkindo invited U.S. shale officials to
16 join him at the OPEC International Seminar in Vienna, Austria. Executives from at least two
17 Defendants attended the event—Defendant Pioneer’s Scott Sheffield and Defendant Hess’s John
18 Hess—during which Sheffield stated: “OPEC should boost daily output by roughly 1 million
19 barrels over time” and “[t]hey [OPEC] need to put together some kind of deal to phase into the
20 market. None of us want \$80 to \$100 [per barrel] oil, that’s too high. There’s a sweet spot
21 between \$60 and \$80.”⁴¹ Sheffield then added: “OPEC needs to fulfill its duty.”⁴²

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24 ³⁷ <https://www.cnbc.com/2018/03/06/opec-wants-to-take-its-relationship-with-us-shale-producers-to-the-next-level.html> (last accessed 1/25/24).

25 ³⁸ *Id.*

26 ³⁹ <https://www.reuters.com/article/us-oil-opec-usa-idUSKCN1GB2KP/> (last accessed 1/25/24).

27 ⁴⁰ <https://www.reuters.com/article/us-oil-opec-contl-resources-idUSKBN1JE1VW/> (last accessed 1/25/24).

28 ⁴¹ <https://www.reuters.com/article/idUSKBN1JG2OA/> (last accessed 1/25/24).

⁴² *Id.*

1 75. In connection with the same OPEC summit, Defendants publicly admitted—
2 perhaps for the first time—to actively participating, rather than merely listening, during their
3 meetings with OPEC. Defendant Pioneer’s Sheffield admitted to discussing crude oil supplies and
4 their effect on global prices: “My message yesterday as I spoke to the [OPEC] panel was that it’s
5 important that OPEC increases production somewhat to make up for the different. If they don’t
6 we are going to see \$100 oil or higher.”⁴³

7 76. Sheffield’s message was apparently received loud and clear, and he received a
8 return response: two days before OPEC’s June 22, 2018 production negotiation, Sheffield
9 predicted to Bloomberg the exact amount of OPEC’s production change.⁴⁴

10 77. In January 2019, OPEC’s Secretary General Barkindo, Defendant Hess’s CEO
11 John Hess, and Defendant Occidental’s CEO Vicki Hollub sat together on a panel at the Davos
12 World Economic Forum where it was reported that both Hess and Hollub “said that growth of
13 U.S. shale oil output would slow” in the near future and Barkindo, in turn, expressed a desire “to
14 talk more regularly to U.S. producers to understand their industry better even if they could not
15 participate in any OPEC-led production cuts.”⁴⁵

16 78. Hess responded by saying “OPEC plays a very important role in stabilizing the
17 market and those efforts need to be recognized,” to which Barkindo responded: “We have to
18 continue to collaborate. It’s one industry. It’s a global industry, and I think our colleagues in the
19 U.S. are on the same page with us and we will work together to exchange views.”⁴⁶

20 79. That same month, OPEC+ began new production cuts, agreeing to reduce supply
21 by 1.2 million barrels per day over the next six months.⁴⁷ After those cuts were announced, it was

22 ⁴³ [https://www.bloomberg.com/news/videos/2018-06-21/pioneer-chairman-sees-an-opec-
23 increase-of-up-to-600-000-b-d-video](https://www.bloomberg.com/news/videos/2018-06-21/pioneer-chairman-sees-an-opec-increase-of-up-to-600-000-b-d-video) (last accessed 1/25/24).

24 ⁴⁴ *Id.*; [https://www.reuters.com/article/us-oil-opec/opec-agrees-modest-hike-in-oil-supply-after-
25 saudi-and-iran-compromise-idUSKBN1JI0OG/](https://www.reuters.com/article/us-oil-opec/opec-agrees-modest-hike-in-oil-supply-after-saudi-and-iran-compromise-idUSKBN1JI0OG/) (last accessed 1/25/24).

26 ⁴⁵ <https://www.reuters.com/article/uk-davos-meeting-opec-usa-idUKKCN1PH1TG/> (last accessed
27 1/25/24).

28 ⁴⁶ [https://www.cnbc.com/2019/01/23/trump-blasted-opec-hess-ceo-says-the-group-deserves-
praise.html](https://www.cnbc.com/2019/01/23/trump-blasted-opec-hess-ceo-says-the-group-deserves-praise.html) (last accessed 1/25/24).

⁴⁷ <https://www.reuters.com/article/us-oil-opec-survey-idUSKCN1VK1YD/> (last accessed
1/25/24).

1 reported that “U.S. shale producers cheered OPEC’s decision to trim output, a move that sent
2 crude prices higher [when announced] closing at levels that [shale] oil executives said would keep
3 their profits flowing.”⁴⁸

4 80. In March 2019, U.S. shale oil executives (including at least some of the
5 Defendants) and OPEC met at CERAWeek. Bloomberg reported that “[t]he event has become an
6 informal communication channel between the cartel and fast-growing shale producers.”⁴⁹

7 81. Once again, U.S. shale oil executives—including at least Defendant
8 Diamondback’s CEO Travis Stice, Defendant Centennial’s CEO Mark Papa, and Defendant
9 Occidental’s CEO Vicki Hollub—met with OPEC’s Secretary General Barkindo for a dinner
10 meeting during that CERAWeek conference.⁵⁰ Barkindo described the dinner as a “friendly
11 conversation on current industry issues and the immediate prospects and challenges for all,” while
12 Stice told reports that OPEC and Defendants had “a very good session” which included “open
13 dialogue on some of the things that are going on in the U.S. shale revolution, U.S. oil production
14 and the associated balance of what’s going on in our industry.”⁵¹

15 **E. 2021: Defendants Agree to Cut Production of Shale Oil.**

16 82. Despite the increase in communications and information exchanges, it is not clear
17 when precisely Defendants began coordinating output in conjunction with OPEC. Through the
18 end of 2018, it at least ostensibly appears as if Defendants were not ready to slow their growth
19 and cut back production.

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⁴⁸ <https://www.reuters.com/article/idUSL1N1YC20I/> (last accessed 1/25/24).

25 ⁴⁹ <https://www.bloomberg.com/news/articles/2019-03-11/venezuelan-oil-output-is-plunging-iea-says-cerawee-update> (last accessed 1/25/24).

26 ⁵⁰ <https://www.bloomberg.com/news/articles/2019-03-11/opec-to-break-bread-with-shale-rivals-in-houston-for-3rd-year> (last accessed 1/25/24).

27 ⁵¹ *Id.*
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Figure 3: Change in Crude Oil Production (2014 – 2019)⁵²



Source: U.S. Energy Information Administration

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83. According to industry analyst projections, 2019 would bring “[t]he second wave of the U.S. Shale revolution,” which should have been “concerning for OPEC” because “U.S. oil output [wa]s expected to grow by 1.4. million barrels a day [in 2019], to average 12.4 million barrels a day.”⁵³ But that second wave never came.

84. In 2020, COVID-19 lockdowns drove demand for crude oil down to never-seen-before lows. Following months of economic turmoil, in July 2020, OPEC’s Secretary General communicated clearly and unequivocally that OPEC could inflate and sustain crude prices if Defendants cooperated:

We were able to reach out to the U.S. independents and we had established a line of communication with them. We have reached some level of

⁵² <https://www.wsj.com/articles/opec-vs-shale-the-battle-for-oil-price-supremacy-1155588826> (last accessed 1/25/24).

⁵³ *Id.*

1 comfort among ourselves. They have been participating also at their own
2 levels to ensure that this conversation is inclusive and is led by the biggest
3 producers. There is no objective whatsoever from us as a group or as
4 individual countries to drive U.S. shale production out of business.
5 Everybody has a role to play. We are very much appreciative of the support
6 and the cooperation we are getting from the U.S. both at the level of
7 policymakers as well as from industry.⁵⁴

8 85. On November 28, 2020, Defendant EOG's CEO Bill Thomas signaled the
9 industry's willingness to follow OPEC's lead on pricing and not to respond by increasing
10 production:

11 In the future, certainly we believe OPEC will be the swing producer—
12 really, totally in control of oil prices.

13 We don't want to put OPEC in a situation where they feel threatened, like
14 we're taking market share while they're propping up oil prices.⁵⁵

15 86. In early 2021, as the world began slowly emerging from the pandemic, demand
16 for crude oil surged, causing prices to rise to nearly \$70/barrel in March 2021. To prop up prices
17 even higher, OPEC and OPEC+ countries purposely and collectively withheld production of
18 crude oil.⁵⁶

19 87. Defendants stayed true to their word and responded by also withholding
20 production. Suddenly and nearly in unison they not only slowed down their own production, but
21 began making public statements touting the need for supply “discipline.” Throughout 2021,
22 Defendants consistently signaled to each other and to OPEC that they were no longer competing
23 for market share and would not act as swing producers:

24 a. February 2021: Defendant Chesapeake's CEO Doug Lawler announced
25 that U.S. shale oil producers were entering a “new era” of shale
26 production that “requires a different mindset” of “more discipline and
27

28 ⁵⁴ <https://www.ogj.com/general-interest/article/14179258/opec-secretary-general-no-objective-to-drive-us-shale-out-of-business> (last accessed 1/25/24).

⁵⁵ <https://www.bloomberg.com/news/articles/2020-11-28/the-pandemic-has-broken-shale-and-left-oil-markets-in-opecs-hands> (last accessed 1/25/24).

⁵⁶ <https://www.cnn.com/2021/03/04/investing/opec-oil-prices-saudi-russia/index.html> (last accessed 1/25/24).

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1 responsibility.”⁵⁷ Defendant Pioneer’s CEO Scott Sheffield agreed and
2 predicted that small companies—i.e., those not included in discussions
3 with OPEC—would increase output to meet rising prices, but that
4 major producers would not such that, in the aggregate, U.S. output
5 would “remain flat to 1% higher” even if crude prices exceeded \$60 per
6 barrel, a level at which a market observer noted “any oil production is
7 profitable, especially the relatively high-cost U.S. shale patch.”⁵⁸

8 b. March 2021: On the same day OPEC publicly announced it would be
9 restricting supply, Defendant Occidental’s CEO Vicki Hollub said that
10 despite a “healthier supply and demand environment” and a “V-
11 shaped” post-pandemic recovery, U.S. oil production would not resume
12 to pre-pandemic levels because Defendants and other U.S. shale oil
13 producers were now “committed to value growth, rather than
14 production growth.”⁵⁹

15 c. April 2021: Defendant Pioneer’s CEO Scott Sheffield signals his
16 company and other U.S. producers would not meet rising prices by
17 increasing supply: “OPEC and Russia were upset that we grew too
18 much,” he said.⁶⁰ “If we ever start growing again too much, we’re
19 going to have another price war.”⁶¹ That was why he was “totally
20 against” an EIA forecast that predicted substantial production growth,
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23 _____
24 ⁵⁷ <https://www.reuters.com/business/energy/opec-us-oil-firms-expect-subdued-shale-rebound-even-crude-prices-rise-2021-02-22/> (last accessed 1/25/24).

25 ⁵⁸ *Id.*

26 ⁵⁹ <https://www.cnbc.com/2021/03/04/us-oil-production-wont-return-to-pre-pandemic-levels-occidental-ceo.html> (last accessed 1/25/24).

27 ⁶⁰ https://www.rigzone.com/news/wire/pioneer_chief_warns_of_opec_price_war_risk-14-apr-2021-165162-article/ (last accessed 1/25/24).

28 ⁶¹ *Id.*

1 because “producers now know the stakes and will stick to their mantra
2 of capital discipline.”⁶²

3 d. June 2021: In an interview with Reuters, Defendant Pioneer’s CEO
4 Scott Sheffield said that he was “confident the producers will not
5 respond” the high crude oil prices by increasing production because
6 they were focused on “shareholder returns.”⁶³ It was further reported
7 that “[i]n the United States, closely held companies have contributed
8 substantially to rig additions this year, but Sheffield said those smaller
9 firms should not drive up volumes enough to ruffle OPEC+
10 producers.”⁶⁴

11 e. August 2021: On an earnings call, Defendant EOG’s President and
12 CEO Bill Thomas—echoing Defendant Chesapeake’s CEO Lawler’s
13 language from earlier in the year, referenced a “new era” of
14 collaboration in the global crude oil market with a “more positive
15 macro environment than we’ve been in since really the shale business
16 started. I think OPEC+ is solid. I think the U.S. will remain disciplines.
17 And so, I think the industry is in for a long run of really good results.”⁶⁵

18 f. October 2021: Defendant Pioneer’s CEO Scott Sheffield said U.S.
19 producers were not willing to increase supply to curb soaring crude oil
20 prices that were “under OPEC control,” reflecting Defendants’
21 production restraint agreement.⁶⁶ Sheffield reaffirmed Defendant
22 Pioneer’s commitment to the conspiracy, promising to cap any Pioneer
23

24 ⁶² *Id.*

25 ⁶³ <https://www.reuters.com/business/energy/us-shale-industry-tempers-output-even-oil-price-jumps-2021-06-28/> (last accessed 1/25/24).

26 ⁶⁴ *Id.*

27 ⁶⁵ <https://www.fool.com/earnings/call-transcripts/2021/08/05/eog-resources-eog-q2-2021-earnings-call-transcript/> (last accessed 1/25/24).

28 ⁶⁶ <https://www.ft.com/content/c21eb656-8d09-45ce-a13a-7d8419426b05> (last accessed 1/25/24).

1 output increase at 5% per year regardless of the price of crude oil,
2 explaining “everybody’s going to be disciplined, regardless whether it’s
3 \$75 Brent, \$80 Brent, or \$100 Brent.”⁶⁷

4 88. Considering that breakeven prices for U.S. shale oil production at that time were
5 approximately \$40 per barrel, Defendants’ “discipline” and “restraint” raised eyebrows amongst
6 industry analysts:

7 a. January 2021: Reuters reports that “U.S. shale producers are keeping
8 their pledges to hold the line on spending and keep output flat, a
9 departure from previous boom cycles.”⁶⁸ The reporter noted that the
10 recent “run up in crude prices, and oil output curbs imposed by the
11 OPEC+ producers group, historically would have triggered a drilling
12 boom.”⁶⁹

13 b. June 2021: A Reuters columnist notes that “U.S. shale producers have
14 normally captured market share from OPEC+ whenever prices have
15 been above \$55-60 per barrel.”⁷⁰ However, Defendants’ output
16 restraints have “emboldened OPEC+ to maintain its own output curbs,
17 temporarily removing the threat of lost market share and accelerating
18 the upward pressure on prices. Shale producers have publicly reiterated
19 their new commitment to output restraint in interviews as well as calls
20 with analysts and investors.”⁷¹ The author further notes that “there is a
21 broad consensus among OPEC+ countries and the U.S. shale industry
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24 ⁶⁷ *Id.*

25 ⁶⁸ <https://www.reuters.com/business/energy/us-shale-industry-tempers-output-even-oil-price-jumps-2021-06-28/> (last accessed 1/25/24).

26 ⁶⁹ *Id.*

27 ⁷⁰ <https://www.reuters.com/business/energy/us-shale-restraint-pushes-oil-prices-multi-year-high-kemp-2021-06-04/> (last accessed 1/25/24).

28 ⁷¹ *Id.*

1 on the need for slower output growth, higher prices, and wider profit
2 margins.”⁷²

3 c. February 2022: On Defendant Chesapeake’s Q4 2021 earnings call,
4 Bank of America Managing Director and Head of U.S. Oil and Gas
5 challenged Defendant Chesapeake’s CEO regarding its plans to slow
6 production, calling it “the easiest way to destroy value” for the
7 company in the long term.”⁷³

8 89. But OPEC knew precisely what was happening. In early 2021, OPEC “predicted”
9 a significant annual drop in U.S. shale production and Reuters reported that anonymous OPEC
10 sources confirmed “[t]he lack of a shale rebound could make it easier for OPEC and its allies to
11 manage the market.”⁷⁴ OPEC Secretary General Barkindo similarly signaled that the price war
12 was over, stating: “U.S. shale is an important stakeholder in our global efforts to restore balance
13 to the oil market” and that independents and OPEC “have a shared responsibility in this
14 regard.”⁷⁵

15 **F. 2022-2023: Defendants, Again Contrary to Their Unilateral Self Interest,**
16 **Continue to Refuse to Increase Supply and Capture Market Share**

17 90. In 2022, following Russia’s invasion of Ukraine, crude oil prices surged
18 dramatically. Unlike the dramatic drop in demand caused by the COVID-19 pandemic, this was a
19 supply-side phenomenon precipitated by a sudden decrease in the volume of available oil in the
20 U.S. market as a result of both supply chain disruptions and Russia’s oil production being
21 unavailable to the world market.

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25 ⁷² *Id.*

26 ⁷³ <https://seekingalpha.com/article/4489980-chesapeake-energy-corporation-chk-ceo-nick-delloso-on-q4-2021-results-earnings-call> (last accessed 1/25/24).

27 ⁷⁴ <https://www.reuters.com/business/energy/opec-us-oil-firms-expect-subdued-shale-rebound-even-crude-prices-rise-2021-02-22/> (last accessed 1/25/24).

28 ⁷⁵ *Id.*

1 91. By the middle of that year, the price of oil rose above \$120 per barrel—an
2 amount nearly four times larger than the low water mark reached during the OPEC Price War in
3 2016.

4 92. In response to the possibility that higher prices might recede, OPEC further cut
5 production even further, including cuts in October 2022 of two million barrels per day. OPEC
6 announced these cuts just as crude oil prices began to normalize, indicating that they were
7 designed to “stabilize the recent fall in global energy prices.”⁷⁶

8 93. Despite the fact that 2022 saw record high prices that remained high throughout
9 2023, Defendants continued to act against their rational economic self-interest by withholding
10 production:

11 a. February 2022: While the massing of Russian troops on Ukraine’s
12 borders was making headlines, Defendant Pioneer’s CEO Scott
13 Sheffield publicly states: In regards to the industry, it’s been interesting
14 watching some of the announcements so far, the public[ly listed]
15 independents are staying in line,” and “I’m confident they will continue
16 to stay in line.”⁷⁷ He tells one reporter during an interview on
17 Bloomberg television: “Whether it’s \$150 oil, \$200 oil, or \$100 oil,
18 we’re not going to change our growth plans.”⁷⁸

19 b. February 2022: That same week, Defendant Continental’s CEO Bill
20 Berry says on the company’s Q4 earnings call that “[w]e project
21 generating flat to 5% annual production growth over the next five years
22 as we have previously noted.”⁷⁹

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25 ⁷⁶ <https://www.washingtonpost.com/business/2022/10/05/opec-plus-oil-cut-russia-saudi-arabia/>
(last accessed 1/25/24).

26 ⁷⁷ [https://oilprice.com/Energy/Energy-General/Not-Even-200-Oil-Will-Make-Shale-Giants-Drill-](https://oilprice.com/Energy/Energy-General/Not-Even-200-Oil-Will-Make-Shale-Giants-Drill-Aggressively.html)
27 [Aggressively.html](https://oilprice.com/Energy/Energy-General/Not-Even-200-Oil-Will-Make-Shale-Giants-Drill-Aggressively.html) (last accessed 1/25/24).

28 ⁷⁸ *Id.*

⁷⁹ *Id.*

- 1 c. February 2022: Bloomberg reports that “[Defendant]EOG Resources
2 Inc. plans to restrain oil growth despite surging prices, falling into line
3 with most other major U.S. independent shale producers...like
4 [Defendant] Pioneer National Resources and [Defendant] Continental
5 Resources[, what] are also limiting increases to 5% this year.”⁸⁰
- 6 d. March 2022: Defendant Occidental’s CEO Vicki Hollub touts its “huge
7 inventory of high-quality investments” but further states that the
8 company is not acting on those investments because it is “instead
9 focused on maintaining high profits.”⁸¹
- 10 e. August 2022: During an earnings call, Defendant EOG states that even
11 though the economic conditions are ripe for a production increase the
12 company intends to limit its 2023 production growth to “low single
13 digits” because it is “committed to remaining disciplined.”⁸²
- 14 f. January 2023: Defendant Pioneer’s Scott Sheffield states that the
15 “aggressive growth era of US shale is over” and that Defendant Pioneer
16 and the other Defendants are “no longer a swing producer.”⁸³
- 17 g. February 2023: Defendant Diamondback’s CEO Travis Stice asserts,
18 “we have no reason to put growth before returns...we will continue to
19 be disciplined.”⁸⁴
- 20 h. March 2023: When asked in an interview why Occidental was not
21 using its profits to “drill more wells” and “bring down prices,”

22 _____
23 ⁸⁰ <https://www.bloomberg.com/news/articles/2022-02-24/eog-holds-back-oil-production-growth-in-line-with-shale-peers> (last accessed 1/25/24).

24 ⁸¹ <https://www.cnbc.com/2022/03/08/oil-producers-in-a-dire-situation-and-unable-to-ramp-output-says-oxy-ceo.html> (last accessed 1/25/24).

25 ⁸² <https://www.reuters.com/business/energy/us-shale-producer-eog-maintain-low-single-digit-oil-output-2022-08-05/> (last accessed 1/25/24).

26 ⁸³ <https://www.ft.com/content/60747b3b-e6ea-47c0-938d-af515816d0f1> (last accessed 1/25/24).

27 ⁸⁴ <https://www.ogj.com/drilling-production/article/14234465/diamondback-to-keep-production-flat-invest-175b-in-22> (last accessed 1/25/24).

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1 Defendant Occidental’s CEO Vicki Hollub replies that “prices are in a
2 good place right now” and that Occidental has no intention of
3 increasing production to meet global demand and lower U.S. gas prices,
4 despite having the ability to profitably increase production.”⁸⁵

5 94. Within this context of high crude prices and ever-lowering breakeven prices for
6 Defendants, industry journalists and analysts continued to express their disbelief that Defendants
7 refused to compete for market share:

8 a. February 2022: According to the Washington Post, the crude oil price
9 increases following Russia’s invasion of Ukraine are a “clear signal to
10 raise [shale oil] production; we’re talking Bat-signal clarity here.”⁸⁶

11 b. February 2022: A Bloomberg article asks why Defendant EOG
12 wouldn’t “take advantage of higher prices by pumping more crude
13 from its shale fields,” and notes that EOG “plan[ned] to restrain oil
14 growth this yar despite surging prices, falling into line with most other
15 major U.S. independent shale producers.”⁸⁷

16 c. March 2022: A CNBC anchor observes: “I know we keep hearing
17 about this key code word from all the oil companies right now that they
18 are ‘disciplined,’ but when you see oil north of 120 dollars a barrel, I
19 mean it’s one thing to be disciplined, it’s another thing to miss an
20 opportunity.”⁸⁸

21 d. April 2023: Following additional production reductions by OPEC,
22 Bloomberg reports that the U.S. shale industry does not plan to “break

23 ⁸⁵ <https://www.cnbc.com/2023/03/09/us-wont-reach-new-record-oil-production-ever-again-pioneer-ceo.html> (last accessed 1/25/24).

24 ⁸⁶ <https://www.bloomberg.com/opinion/articles/2022-02-28/shale-companies-say-they-can-t-drill-more-even-when-there-s-a-war> (last accessed 1/25/24).

25 ⁸⁷ <https://www.bloomberg.com/news/articles/2022-02-24/eog-holds-back-oil-production-growth-in-line-with-shale-peers> (last accessed 1/25/24).

26 ⁸⁸ <https://www.cnbc.com/2022/03/08/oil-producers-in-a-dire-situation-and-unable-to-ramp-output-says-oxy-ceo.html> (last accessed 1/25/24).

1 a three-year trend” by increasing production in response to rising oil
2 prices, and will not “rescue” U.S. consumers from high gas prices,
3 despite being “flush with case after record profits,” because, according
4 to one industry expert, “OPEC and shale are much more on the same
5 team now, with supply discipline on both sides” which “really puts a
6 floor under the price of oil long term.”⁸⁹

7 95. Throughout 2022 and 2023, Defendants and OPEC continued to meet and
8 communicate with one another.

9 a. March 2022: Defendants again meet with OPE during CERAWEEK in
10 Houston, Texas. As observed by Reuters, Defendants and OPEC had
11 “found themselves on similar sides as oil prices have surged well above
12 \$100 a barrel: no rush to rapidly boost production.”⁹⁰

13 b. March 2023: FT reports that U.S. shale executives, including at least
14 Defendant Pioneer’s Scott Sheffield, Defendant Chesapeake’s Nick
15 Dell’Osso, Defendant Diamondback’s Travis Stice, Defendant
16 Occidental’s Vicki Hollub, and Defendant Hess’s John Hess met with
17 OPEC Secretary General-elect Haitham Al Ghais for a private dinner in
18 a Houston restaurant wherein the attendees reaffirmed their agreement
19 to restrict production, “[d]espite recent record profits.”⁹¹

20 96. In case there was any room for doubt, Defendants made it abundantly clear in
21 early 2023 that they were coordinating with OPEC.

22 97. On January 5, 2023, Defendant Pioneer’s CEO Scott Sheffield claimed that
23 “OPEC ministers are frustrated over the recent price fall,” later predicting that upcoming
24 production was “going to change... . If [price] stays too low, it wouldn’t surprise me if [OPEC]

25 ⁸⁹ <https://www.bnnbloomberg.ca/don-t-expect-us-shale-to-quickly-fill-the-gap-left-by-opec-cut-1.1903965> (last accessed 1/25/24).

26 ⁹⁰ <https://www.reuters.com/business/energy/cerawee-oil-prices-soar-us-shale-opec-no-rush-resume-price-war-2022-03-10/> (last accessed 1/25/24).

27 ⁹¹ <https://www.ft.com/content/f1674a6e-39ae-4abb-ae2a-40fefb58d6b9> (last accessed 1/25/24).

1 ha[s] another cut... . [W]e'll see that happens in the next 90 days.”⁹² A little less than three
 2 months later, OPEC “shocked traders around the world” by announcing a “surprise” production
 3 cut whereas OPEC “had been largely expected to stick to its already agreed 2m bpd cuts.”⁹³

4 98. On March 27, 2023, in between Sheffield’s prediction and OPEC’s surprise
 5 announcement, it was reported that some Defendants—including at least Defendant Pioneer and
 6 Defendant EOG—had pulled back hedge positions they had previously taken to protect
 7 downward oil price movements, leaving those Defendants “suddenly vulnerable” and exposing
 8 them to massive financial risk if oil prices declined.⁹⁴ Defendant Pioneer’s CEO Sheffield
 9 doubled-down stating “we’re not going to hedge” and proclaiming he was “optimistic that we’ll
 10 see \$100 a barrel before the end of the year.”⁹⁵

11 99. In light of OPEC’s surprise announcement less than a week later, the only
 12 plausible and reasonable explanation for Defendants’ failure to hedge is that they had advance
 13 notice of OPEC’s intentions to cut crude oil production.

14 100. In April 2023, one energy industry analyst aptly summarized the impact of
 15 Defendants’ agreement to constrain crude oil production:

16 In its early days, shale behaved like a dimmer, with output growth
 17 accelerating proportionally as oil prices were dialed up. That ability to
 18 respond quickly to the market was due to the speed at which shale wells
 19 could be developed: a few months compared to the years or decades of Big
 20 Oil projects. Today, shale is as responsive as in the past. But there’s a
 21 difference. **The dimmer appears to be capped at a certain level: No matter how high oil prices go above that level – say \$100 a barrel – the industry will no longer add rigs to sop up market share.** Rather, it will
 22 stay put and go into harvest mode with existing wells – that’s exactly what
 23 happened in 2022, much to the consternation of the White House, which
 24 urged shale companies to drill more.⁹⁶

24 ⁹² <https://www.bloomberg.com/news/articles/2023-04-04/one-shale-executive-correctly-called-opec-s-surprise-output-cut> (last accessed 1/25/24).

25 ⁹³ <https://www.theguardian.com/business/2023/apr/02/opec-announces-surprise-cuts-in-oil-production-of-about-115-mbpd> (last accessed 1/25/24).

26 ⁹⁴ <https://www.ft.com/content/c3baf69f-41fc-42ea-b13a-5ef6f546e143> (last accessed 1/25/24).

27 ⁹⁵ *Id.*

28 ⁹⁶ <https://www.bloomberg.com/opinion/articles/2023-04-24/higher-oil-prices-means-wall-street-s-shale-investments-will-finally-pay-off> (last accessed 1/25/24).

1 101. As demonstrated by Defendants’ prior role as swing producers, Defendants were
2 capable of increasing crude oil production and growing their market share; they simply chose not
3 to. Why they made that choice can only be explained by the existence of the conspiracy alleged
4 herein.

5 102. Defendants’ agreement to constrain U.S. shale oil production achieved is intended
6 and desired effect—*i.e.*, artificially inflating domestic crude oil prices and the enjoyment of
7 massive revenue increases without the need to invest in new production or otherwise increase
8 supply.

9 **G. Defendants’ “Restraint” Is Economically Irrational Absent Collusion.**

10 103. Defendants employed a variety of terms and phrases which they employed as
11 code to disguise their mutual agreement to coordinate and restrain domestic shale oil
12 production—“disciplined,” focus on “value growth,” or “staying in line,” or operating for
13 “shareholder returns.” Defendants’ repeated public confirmation of their production discipline
14 revealed that they each in fact had additional production capacity that they simply chose to leave
15 untouched.

16 104. In a competitive market, when prices are higher than a firm’s marginal costs, the
17 firm will increase its supply to the point where the market price equals the marginal cost of
18 producing an additional unit of supply (accounting for an economic profit). With oil prices far
19 above each Defendant’s “break-even” point, each Defendant had enormous incentives to pursue
20 additional production because, in a competitive market, firms that decline profitable
21 opportunities lose them to competitors.

22 105. In that situation, expanding production to take advantage of prices above your
23 breakeven is the economically rational response. If you do not expand production, your
24 competitor will, taking margin share and reinvesting their additional profits into further
25 productive capacity and/or efficiency gains. Defendants taught OPEC this very lesson during the
26 Shale Revolution and the ensuing OPEC Price War.

27 106. The only economically rational reason any Defendant would choose not to
28 increase production is if that Defendant knew the others would also decline to increase

1 production, and that enough of the crude oil market would exercise similar restraint that it would
2 not significantly affect the Defendants’ market share. Individually, no U.S. shale oil producer
3 had market power sufficient to constrain overall U.S. shale oil outputs in any meaningful way,
4 let alone global outputs. However, together Defendants had substantial power in the U.S.
5 market—especially with respect to the swing production that mattered most to global prices.
6 Together, the Defendants could substantially constrain that portion of U.S. oil production most
7 important to the global price of oil and, as a result, they could exercise their power to negotiate
8 cartel supply restrictions with OPEC and insure themselves against competition from other
9 major swing producers.

10 107. In fact, the supermajors and many smaller independent producers did respond to
11 these individual incentives, though practical limitations on their ability to respond quickly
12 limited their effect. Supermajors have historically refrained from investing in fracking, viewing
13 them as a smaller-scale enterprise difficult to integrate into their very large-scale institutions. Yet
14 in 2021 and 2022, directly responding to U.S. shale producers’ “underinvesting as an industry,”
15 the supermajors began investing in shale at unprecedented rates.

16 108. In 2022, both ExxonMobil and Chevron planned on increasing its production
17 level in the Permian Basin by 25% and 10%, respectively. Mid-way through 2022, Chevron
18 anticipated a 15% year-over-year increase in shale oil production compared to 2021.

19 109. In May 2023, ExxonMobil CEO Darren Woods revealed that the company
20 intended to use new technologies aimed at doubling the volume of oil produced from U.S. shale
21 holdings over a five-year timeframe.

22 110. Smaller, private shale companies took advantage of the high prices and drilled
23 furiously. Benefiting from the production gap left by Defendants, these smaller private producers
24 “lead output gains during the highest [crude oil] prices in seven years.”⁹⁷ As one example,

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27 ⁹⁷ <https://www.reuters.com/business/energy/us-shale-oil-forecasts-keep-rising-smaller-producers-lead-way-2022-03-02/> (last accessed 1/25/24).
28

1 according to Reuters, “Tall City Exploration, a privately-backed Permian [basin] producer, added
2 a second drilling rig . . . and is eyeing a three-fold increase” from 2021 in 2022 production.⁹⁸

3 111. But small shale oil producers are limited in how fast they can add supply and
4 increase production because they lack economies of scale, have less capital, less access to
5 limiting resources like drilling rigs, and are less able to scale up and operate multiple drilling
6 projects simultaneously.

7 112. Compounding matters, Defendants are able to leverage their collective market
8 share because the U.S. shale oil industry is so highly fragmented: of the roughly 250 companies
9 operating oil rigs in the U.S., approximately 2/3 are operating just one oil rig.

10 113. In addition, conventional oil production in the U.S. is largely fixed and cannot
11 quickly increase or decrease production in response to changing market dynamics in the short- to
12 medium-term.

13 114. When Defendants’ production and capacity are combined with that of the OPEC
14 and OPEC+ member countries, the resulting cartel formed by these entities controls
15 approximately 60% of the total global oil production and nearly all total global oil production
16 capable of quickly responding to sudden price variations on a short-term basis.

17 **PLUS FACTORS**

18 115. In addition to Defendants’ and OPEC’s statements quoted above, the existence of
19 the conspiracy alleged herein is supported by “plus factors” that plausibly support the reasonable
20 inference that Defendants’ actions are the product of collusion and not pro-competitive, unilateral
21 conduct.

22 116. The U.S. shale oil industry is highly susceptible to collusion because:

- 23 a. it is highly fragmented, with a small number of larger producers with
24 excess capacity and numerous smaller producers;

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28 ⁹⁸ *Id.*

- 1 b. there are significant opportunities to collude, coordinate supply
2 restraints, and police cheating as a result of the trade associations that
3 Defendants regularly participate in;
- 4 c. shale oil is a commodity, thus facilitating price-fixing negotiations
5 amongst entities that would otherwise be competitors;
- 6 d. shale oil’s downstream products, including Commercial Marine Fuel,
7 are daily-use commodities for which there are no reasonable substitutes
8 and/or high switching costs, leading to highly inelastic demand which
9 enables producer cartels to extract monopoly rents from consumers
10 who are unable to avoid price increases; and
- 11 e. thanks to OPEC and OPEC+, the majority of the oil market is already
12 explicitly cartelized.

13 117. Defendants’ actions during the Class Period were against each of the Defendant’s
14 unilateral self-interest insofar as no rational economic actor facing the strong individual
15 incentives to increase their shale oil production and capture market share would forego such
16 opportunities unless those actors knew in advance that the other producers had already committed
17 to similarly constrain production and create artificially high price levels.

18 118. In addition, Defendants’ decisions not to increase production were made in an
19 environment where Defendants regularly met with one another and with OPEC, wherein they
20 discussed their confidential business plans (including forward-looking production and capacity
21 information) in a manner that would be economically irrational absent the alleged conspiracy.

ANTITRUST INJURY

A. Defendants’ Conspiracy Has Inflated the Price of Crude Oil Throughout the Class Period.

23 24 25 26 119. The effect of U.S. shale oil production on crude oil prices, and thus Commercial
27 Marine Fuel prices, is widely recognized by economists and market analysts. For example:

- 27 a. In a 2017 article in the ECB Economic Bulletin, economists Irma
28 Alonso Álvarez and Virginia Di Nino concluded that “OPEC’s

1 production decisions during the shale oil age...have been particularly
2 influenced by the evolving supply conditions in the United States,”
3 because U.S. shale oil increased global crude oil supply.⁹⁹

4 b. In a June 2019 Forbes article it was reported that “without the U.S.
5 shale oil boom, [crude] oil prices would have never dropped back
6 below \$100/bbl” because, since 2008, “global oil production has
7 increased by 11.6 million BPD” while “U.S. oil production increased
8 by 8.5 million BPD -- equal to 73.2% of the global increase in
9 production.”¹⁰⁰

10 c. In an October 2019 report by the Executive Office of the President of
11 the United States, Council of Economic Advisers, it was found that
12 “[U.S.] Shale production has also reduced the global price of oil by 10
13 percent as of 2019.”¹⁰¹

14 d. In a June 2020 working paper by the Federal Reserve Bank of Dallas,
15 economists Nathan S. Balke, Xin Jin, and Mine Yücel found “that if the
16 shale revolution had not happened, the price of oil would have been
17 36% higher and global output 5.8% lower by the end of 2018.”¹⁰²

18 e. In a July 2023 article in the International Journal of Energy Economics
19 and Policy, economist Maitham A. Rodhan wrote that “increases in US
20 shale oil production had significant impacts domestically and
21 internationally. ... At the international level, it significantly increased
22 oil supply, directly affecting the price of crude oil... .”¹⁰³

23 ⁹⁹ https://www.ecb.europa.eu/pub/pdf/other/ebart201708_01.en.pdf (last accessed 1/25/24).

24 ¹⁰⁰ <https://www.forbes.com/sites/rrapier/2019/06/23/the-u-s-accounted-for-98-of-global-oil-production-growth-in-2018/?sh=209c26df5125> (last accessed 1/25/24).

25 ¹⁰¹ <https://trumpwhitehouse.archives.gov/wp-content/uploads/2019/10/The-Value-of-U.S.-Energy-Innovation-and-Policies-Supporting-the-Shale-Revolution.pdf> (last accessed 1/25/24).

26 ¹⁰² <https://www.dallasfed.org/-/media/documents/research/papers/2020/wp2021.pdf> (last accessed
27 1/25/24).

28 ¹⁰³ <https://econjournals.com/index.php/ijee/article/view/14455/7412> (last accessed 1/25/24).

1 120. Defendants wield this power over crude oil prices because of their roles as swing
 2 producers in the global crude oil market—*i.e.*, they have sufficient market power to dictate when
 3 the United States can and will produce sufficient quantities of shale oil to “swing” the crude oil
 4 market and drive prices down.

5 121. Defendants openly acknowledge that they wield this power, although they publicly
 6 claim that they choose not to use it. In March 2022, the New York Times reported that,
 7 “[e]xecutives of several companies, including [Defendant] Pioneer Natural Resources . . . and
 8 [Defendant] Continental Resources, have said in recent days that they were committed to limiting
 9 production to avoid oversupplying the market and pushing down prices. . . .”¹⁰⁴

10 122. Since at least January 1, 2021, despite high crude oil prices and healthy global
 11 demand, Defendants have coordinated their production decisions, leading to lower growth rates
 12 than would otherwise have been experienced in a market free from such anticompetitive forces.

13 123. Despite shale oil production increases by some non-conspirators, Defendants’
 14 production restraints has dramatically impacted total U.S. shale oil production. In 2022, U.S.
 15 shale oil production increased by 500,000 barrels, a benchmark 50% lower than some market
 16 analysts had estimated.¹⁰⁵

17 124. The gap between the amount of U.S. shale oil that was *actually* produced and the
 18 amount of U.S. shale oil that *would have been produced* but for Defendants’ conspiracy led to
 19 artificially inflated prices for crude oil which, in turn (as discussed below), led to higher
 20 Commercial Marine Fuel prices paid by Plaintiff and the members of the Proposed Class.

21 **B. Defendants’ Conspiracy Has Inflated the Price of Commercial Marine Fuel**
 22 **Purchased by Plaintiff and the Members of the Proposed Classes**

23 125. Commercial Marine Fuel purchasers in the U.S., like Plaintiff and the proposed
 24 class members, purchase Commercial Marine Fuel from fuel docks. Approximately 50% of the
 25 U.S. price of gasoline sold at fuel docks is comprised of the price of crude oil used in the

26 ¹⁰⁴ <https://www.nytimes.com/2022/03/02/business/oil-prices-ope.html> (last accessed 1/25/24).

27 ¹⁰⁵ <https://www.cnbc.com/2023/03/07/oxy-ceo-doesnt-seem-worried-about-politics-of-buybacks-gas-prices.html> (last accessed 1/25/24).
 28

1 manufacturing process, with other cost components covering refining, taxes, and distribution and
 2 marketing.¹⁰⁶ For diesel fuel, crude oil represents approximately a similar percentage of the price
 3 at the dock.

4 126. Costs of refining, taxes, and distribution and marketing do not fluctuate often,
 5 whereas the price of crude oil is actively traded in financial markets and moves constantly, often
 6 experiencing large swings. Between March and August 2022, for example, the WTI spot crude oil
 7 price ranged from less than \$50 per barrel to more than \$120. On a single day in the class
 8 period—March 9, 2022—the price of oil dropped nearly \$15 per barrel, more than 11%.
 9 Consequently, as recognized by the U.S. Energy Information Administration, “[r]etail gasoline
 10 prices are mainly affected by crude oil prices”¹⁰⁷ The same is true of diesel.

11 127. Defendants’ own trade association, the American Petroleum Institute, has
 12 acknowledged that “the price of crude oil is the primary determinant of the price we pay at the
 13 pump” and that “[n]ationwide on a quarterly basis, crude oil prices have explained more than
 14 90% of the variation in [U.S.] gasoline prices since 2020.”¹⁰⁸

15 128. When taking account of crude oil’s movement through the supply chain from
 16 Defendants to Commercial Marine Fuel purchasers, it is far from surprising that crude oil largely
 17 drives the pricing of gasoline and diesel. Defendants and other crude oil producers sell crude oil
 18 to refineries, who then use chemical separation and reaction processes to convert crude oil into
 19 gasoline, diesel, and other products (e.g., home heating oil, jet fuel, and manufacturing
 20 feedstocks). The refineries then transport the gasoline to bulk terminal storage facilities. Because

21 ¹⁰⁶ The Four Main Factors that Influence U.S. Gas Prices, U.S. DEPT OF ENERGY (last
 22 accessed Jan. 12, 2024), <https://www.energy.gov/sites/default/files/2023-04/GasPriceFactors2.jpg>. The remainder of gasoline prices are driven by distribution
 23 and marketing costs (16%), refining costs (14%) and taxes (16%).

24 ¹⁰⁷ EIA, Gasoline Explained: *Factors Affecting Gasoline Prices* (Feb. 22,
 2023), <https://www.eia.gov/energyexplained/gasoline/factors-affecting-gasoline-prices.php>.

25 ¹⁰⁸ Gas Prices Explained: Five Fast Facts About U.S. Gasoline Prices, AM. PETROLEUM INST.,
 26 (last accessed Jan. 12, 2024), [https://www.api.org/oil-and-natural-gas/energy-primers/gas-prices-explained#:~:text=Up%20On%20Facts-Prices%20Impacts%20at%20the%20Pump%3F,gasoline%20retailers%20pay%20to%20distributors](https://www.api.org/oil-and-natural-gas/energy-primers/gas-prices-explained#:~:text=Up%20On%20Facts-Prices%20Impacts%20at%20the%20Pump%3F,gasoline%20retailers%20pay%20to%20distributors.).
 27 *Id.* See also Factors that impact gas prices, NACS (Apr. 05, 2023)
 28 <https://www.convenience.org/Topics/Fuels/The-Price-Per-Gallon> (“Retail gasoline prices move an estimated 2.4 cents per gallon for every \$1 change in the price per barrel [of crude oil].”).

1 crude oil is the primary raw material used to refine gasoline and diesel sold in the United States,
 2 Defendants' conspiracy had a direct effect on Plaintiff and members of the Classes who were
 3 forced to purchase gasoline or diesel at artificially inflated levels. Fuel Dock operators purchase
 4 gasoline and diesel wholesale from refiners (or other gasoline marketers who have purchased
 5 from the refineries) at a price that is directly linked to the price that was paid by refineries for
 6 crude oil, including crude oil sold to those refineries by Defendants. Fuel dock operators set the
 7 price of retail gasoline and diesel above the wholesale price they pay, thereby passing on to
 8 Plaintiffs and the class any increase in the wholesale price. Figure 4 below, which shows that
 9 U.S. gas prices follow the prices paid by U.S. refineries for crude oil, illustrates this dynamic.

10 Figure 4. Refiners Crude Oil Acquisition Costs vs U.S. Average Gasoline Prices (Adjusted for
 11 Inflation)



GROSS KLEIN PC
 THE EMBARCADERO
 PIER 9, SUITE 100
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1 129. As such, the price of crude oil has a direct effect on the price of retail gasoline.¹⁰⁹
 2 Because crude oil is the primary raw material used to refine gasoline and diesel sold in the
 3 United States, and because changes in crude oil prices drove changes in gasoline and diesel
 4 prices paid by Plaintiffs and members of the Class throughout the relevant period, Defendants'
 5 conspiracy had a direct effect on Plaintiffs and class members who were forced to purchase
 6 gasoline or diesel at artificially inflated levels. Indeed, end user consumers and the commercial
 7 purchasers, who are class members here, bear much of the brunt of these artificially inflated
 8 gasoline and diesel prices. The impact is substantial: nearly all analysts agree that, as an
 9 empirical matter, the pass-through rates of shock oil prices to spot gasoline prices are close to
 10 100%.¹¹⁰ And this impact is quickly felt by purchasers: on average, 60% of a change in bulk spot
 11 prices pass-through to the retail price in two weeks, 80% in four weeks, and 100% in just seven
 12 weeks.¹¹¹ Diesel, too, sustains comparably high pass-through rates.

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 16 ¹⁰⁹ Ian Thomas, *U.S. won't reach a new record in oil production 'ever again,' says Pioneer*
 17 *Natural Resources CEO*, CNBC (Mar. 9, 2023), [https://www.cnbc.com/2023/03/09/uswontreach-](https://www.cnbc.com/2023/03/09/uswontreach-new-record-oil-production-ever-again-pioneer-ceo.html)
 18 [new-record-oil-production-ever-again-pioneer-ceo.html](https://www.cnbc.com/2023/03/09/uswontreach-new-record-oil-production-ever-again-pioneer-ceo.html) (In his 2023 State of the
 19 Union, President Biden said that U.S. gasoline prices were too high because oil producers
 20 invested "too little" of their "record profits" to ramp up domestic production and "used those
 21 record profits to buy back their own stock, rewarding their CEOs.").

19 ¹¹⁰ FTC Bureau of Economics, *Gasoline Price Changes and the Petroleum Industry: An Update*,
 20 (2011) at 35, [https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-](https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-economics-gasoline-price-changes-and-petroleum-industry-update/federaltrade-commission-bureau-economics-gasoline-price-changes-and-petroleum-industry.pdf)
 21 [bureau-economics-gasoline-price-changes-and-petroleum-industry-update/federaltrade-](https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-economics-gasoline-price-changes-and-petroleum-industry-update/federaltrade-commission-bureau-economics-gasoline-price-changes-and-petroleum-industry.pdf)
 22 [commission-bureau-economics-gasoline-price-changes-and-petroleum-industry.pdf](https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-bureau-economics-gasoline-price-changes-and-petroleum-industry-update/federaltrade-commission-bureau-economics-gasoline-price-changes-and-petroleum-industry.pdf). See Bumpass
 23 et al., *Retail and wholesale gasoline price adjustments in response to oil price changes*, Energy
 24 Economics (2015) at 54, <https://doi.org/10.1016/j.eneco.2015.08.030> (finding, from study using
 25 monthly U.S. city average pricing data, that "in the long run, a one-dollar increase in the price of
 26 oil per gallon increases the retail gasoline price by \$1.05 per gallon[.]"); Najmeh Kamyabi and
 27 Benaissa Chidmi, *Asymmetric Price Transmission between Crude Oil and the US Gasoline*
 28 *Market*, Journal of Risk and Financial Management (2023) at 6, [https://www.mdpi.com/1911-](https://www.mdpi.com/1911-8074/16/7/326)
 29 [8074/16/7/326](https://www.mdpi.com/1911-8074/16/7/326) (finding, on the state level, comparable pass-through rates of crude oil prices to
 30 regular gasoline prices). See also Kangni Kpodar and Chadi Abdallah, "Dynamic Fuel Price Pass-
 31 Through: Evidence from a New Global Retail Fuel Price Database," IMF Working Paper, No.
 32 16/254 (2016) at 25 (finding, from study of 162 countries, that on average, a one cent increase in
 33 crude oil prices per liter translates to a 1.2 cent increase in retail gasoline prices per liter, meaning
 34 a 120% pass-through rate, six months after the shock.).

35 ¹¹¹ The U.S. regions with the fastest speeds, namely the Gulf Coast and Midwest, experience
 36 complete pass through in four-to-six weeks. FTC Bureau of Economics, *Gasoline Price Changes*
 37 *and the Petroleum Industry: An Update*, at 38 (2011).

1 130. Further, while retail gasoline and diesel prices are often quick to absorb price
 2 increases, they tend to react distinctly slower when oil prices decrease.¹¹² This asymmetrical
 3 pass-through dynamic, coined “rockets and feathers,” reveals the immediate yet enduring impact
 4 of Defendants’ artificially inflated gasoline and diesel prices on the commercial purchasers in
 5 this Class.¹¹³

6 131. As the above allegations demonstrate, the price of crude oil has a direct effect on
 7 the price of Commercial Marine Fuel. This is because crude oil is the primary raw material used
 8 to produce the Commercial Marine Fuel sold throughout the United States. As a result,
 9 Defendants’ conspiracy not only inflated the price of crude oil, it also inflated the price of
 10 Commercial Marine Fuel sold in the United States during the Class Period, which in turn affected
 11 Commercial Marine Fuel purchasers like Plaintiffs and the members of the proposed Classes who
 12 purchased Commercial Marine Fuel at these artificially inflated prices.

13 CLASS ACTION ALLEGATIONS

14 132. Plaintiff brings this lawsuit under Federal Rules of Civil Procedure 23(a), (b)(1)
 15 and (b)(2) on behalf of themselves and as representatives of a class of indirect purchasers seeking
 16 injunctive relief (the “Nationwide Injunctive Relief Class”) defined as follows:

17 All persons and entities who purchased Commercial Marine Fuel for commercial
 18 use in marine vessels from a fuel dock in the United States between January 1,
 19 2021 and until the Defendants’ unlawful conduct and its anticompetitive effects
 cease to persist.

20 133. In addition, Plaintiff brings this lawsuit under Federal Rules of Civil Procedure
 21 23(a) and (b)(3) on behalf of themselves and all others similarly situated seeking damages as well
 22 as equitable relief, on behalf of the following class (the “State Law Class”):

23 All persons and entities who purchased Commercial Marine Fuel for commercial
 24 use in marine vessels from a fuel dock in Alabama, California, Connecticut,

25 ¹¹² Matthew Chesnes, *Asymmetric Pass-Through in U.S. Gasoline Prices*, The Energy Journal,
 Vol. 1, at 154, 157 (2016), <https://www.iaee.org/en/publications/init2.aspx?id=0>.

26 ¹¹³ See Sun, et al., *Asymmetric pass-through of oil prices to gasoline prices with interval time*
 27 *series modelling*, Energy Economics, Vol. 78 (2018) (collecting studies that indicate the
 28 asymmetric price pass-through relationship between crude oil prices and gasoline prices),
<https://doi.org/10.1016/j.eneco.2018.10.027>.

1 Florida, Hawaii, Maine, Maryland, Mississippi, New Hampshire, New York,
2 North Carolina, Oregon, and/or Rhode Island between January 1, 2021 and until
the Defendants' unlawful conduct and its anticompetitive effects cease to persist.

3 134. Specifically excluded from both the Nationwide Injunctive Relief Class and the
4 State Law Class are: Defendants; any of their officers, directors, or employees; any entity in
5 which any Defendant has a controlling interest; any affiliate, legal representative, heir, or assign
6 of any Defendant; any federal, state, or local governmental entities; any judicial officer presiding
7 over this action and the members of his or her immediate family and judicial staff; any juror
8 assigned to this action; and any co-conspirator identified in this action.

9 135. Plaintiff reserves the right to modify these definitions and/or to propose
10 subclasses, as appropriate, based on further investigation and discovery.

11 136. Numerosity. The members of the Nationwide Injunctive Relief Class and the State
12 Law Class are so numerous that joinder of all members would be impracticable. The exact
13 number of members in the Nationwide Injunctive Relief Class and the State Law Class is
14 unknown to Plaintiff at this time, but it is estimated to number in the tens of thousands. The
15 members of the Nationwide Injunctive Relief Class and the State Law Class should be readily
16 identifiable from existing records.

17 137. Typicality. Plaintiff's claims are typical of the claims of the members of the
18 Nationwide Injunctive Relief Class and the State Law Class because they were all similarly
19 affected by Defendants' unlawful conduct in that they paid artificially inflated prices for
20 Commercial Marine Fuel used for commercial purposes in the United States, resulting from
21 Defendants' conspiracy to fix prices in the crude oil market.

22 138. Adequacy. Plaintiff will fairly and adequately represent the interests of the
23 members of the Nationwide Injunctive Relief Class and the State Law Class. Plaintiff's interests
24 are coincident with, and not antagonistic to, those of the other class members. Plaintiff is
25 represented by attorneys experienced in the prosecution of class action litigation generally, and in
26 antitrust litigation specifically, who will vigorously prosecute this action on behalf of the
27 Nationwide Injunctive Relief Class and the State Law Class.

1 139. Common Questions of Law and Fact Predominate. Questions of law and fact
2 common to the members of the Nationwide Injunctive Relief Class and the State Law Class
3 predominate over questions that may affect only individual class members because Defendants
4 have acted on grounds generally applicable to all class members. Common issues of fact and law
5 include, but are not limited to, the following:

- 6 a. whether Defendants and their co-conspirators engaged in a combination
7 or conspiracy to fix, raise, maintain, or stabilize the price of crude oil
8 and/or Commercial Marine Fuel in the United States;
- 9 b. the duration of the conspiracy alleged herein and the acts performed by
10 Defendants and their co-conspirators in furtherance of the conspiracy;
- 11 c. whether such combination or conspiracy violated the antitrust, unfair
12 competition, and consumer protection laws of various states;
- 13 d. whether the conduct of Defendants and their co-conspirators, as alleged
14 herein, caused injury to Plaintiff and other members of the Nationwide
15 Injunctive Relief Class or the State Law Class;
- 16 e. whether Defendants caused Plaintiff and the members of the
17 Nationwide Injunctive Relief Class and/or the State Law Class to suffer
18 damages in the form of overcharges on Commercial Marine Fuel;
- 19 f. the effect of Defendants' conspiracy on the prices of Commercial
20 Marine Fuel sold in the United States during the Class Period;
- 21 g. the appropriate measure of class-wide damages for both the Nationwide
22 Injunctive Relief Class and the State Law Class; and
- 23 h. the nature of appropriate injunctive relief to restore competition in the
24 U.S. market for Commercial Marine Fuel.

25 140. Superiority. A class action will permit numerous similarly situated persons to
26 prosecute their common claims in a single forum simultaneously, efficiently, and without
27 unnecessary duplication of evidence, effort, or expense. A class action will provide injured
28 persons a method for obtaining redress on claims that could not practicably be pursued

1 individually. Moreover, the prosecution of separate actions by individual members of the
2 Nationwide Injunctive Relief Class or the State Law Class would create a risk of inconsistent or
3 varying adjudications, potentially establishing incompatible standards of conduct for Defendants.
4 Plaintiff knows of no manageability or other issue that would preclude maintenance of this case
5 as a class action.

6 141. Injunctive relief. Defendants have acted or refused to act on grounds generally
7 applicable to the members of the Nationwide Injunctive Relief Class and the State Law Class,
8 making injunctive and corresponding declaratory relief appropriate with respect to these classes
9 as a whole pursuant to Federal Rule of Civil Procedure, Rule 23(b)(2).

10 **CLAIMS FOR RELIEF**

11 **A. VIOLATIONS OF THE SHERMAN ACT**

12 **COUNT 1**

13 **VIOLATION OF 15 U.S.C. § 1**

14 **(On behalf of the Nationwide Injunctive Relief Class**

15 142. Plaintiff re-alleges and incorporates by reference all the allegations above as if
16 fully set forth herein.

17 143. From at least January 1, 2021, and continuing through the present, the exact dates
18 being unknown to Plaintiff, Defendants and their co-conspirators entered into a continuing
19 agreement, understanding, and conspiracy in restraint of trade artificially to fix, raise, and
20 stabilize price for crude oil and Commercial Marine Fuel in the United States, including by
21 restraining their respective production volumes, in violation of Section 1 of the Sherman Act (15
22 U.S.C. §1).

23 144. In formulating and carrying out the alleged agreement, understanding, and
24 conspiracy, Defendants and their co-conspirators did those things that they combined and
25 conspired to do, including but not limited to the acts, practices, and course of conduct set forth
26 above, and the fixing, raising, and stabilizing of the price of crude oil and Commercial Marine
27 Fuel.

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1 145. The combination and conspiracy alleged herein has had the following effects,
2 among others:

- 3 a. Price competition in the sale of crude oil has been restrained,
4 suppressed, and/or eliminated in the United States;
- 5 b. Prices for crude oil sold by Defendants and all of their co-conspirators
6 have been fixed, raised, maintained and stabilized at artificially high,
7 noncompetitive levels throughout the United States; and
- 8 c. Those who purchased Commercial Marine Fuel indirectly from
9 Defendants and their coconspirators have been deprived of the benefits
10 of free and open competition, and paid artificially high prices for
11 Commercial Marine Fuel.

12 146. Plaintiff and members of the Nationwide Injunctive Relief Class have been
13 injured and will continue to be injured in their businesses and property by paying more for
14 Commercial Marine Fuel purchased indirectly from the Defendants and their co-conspirators
15 than they would have paid and will pay in the absence of the combination and conspiracy.

16 147. Plaintiff and members of the Nationwide Injunctive Relief Class are entitled to an
17 injunction against Defendants, preventing and restraining the violations alleged herein.

18 **B. VIOLATIONS OF STATE ANTITRUST, UNFAIR COMPETITION, AND**
19 **CONSUMER PROTECTION LAWS**

20 148. Plaintiff re-alleges and incorporates by reference all the allegations above as if
21 fully set forth herein.

22 149. During the Class Period, Defendants and their co-conspirators entered and
23 engaged in a contract, combination, or conspiracy to fix, decrease, stabilize, or maintain at
24 artificially low levels, the production of shale oil in various states to unreasonably restrain trade
25 and commerce and harm consumers in violation of the various state antitrust and consumer
26 protection laws set forth below.

27 150. In formulating and effectuating this conspiracy, Defendants and their co-
28 conspirators performed acts in furtherance of the combination and conspiracy, including:

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1 agreeing to fix, decrease, maintain, or stabilize shale oil production at artificially low levels,
2 thereby raising, fixing, and stabilizing crude oil prices, which injured Plaintiff and members of
3 the Classes; exchanging competitively sensitive information between and among Defendants;
4 and participating in meetings conversations among themselves in the United States and
5 elsewhere to implement, adhere to, and police the unlawful agreements they reached.

6 151. Defendants and their co-conspirators engaged in actions described above for the
7 purpose of carrying out their unlawful agreements to fix, increase, maintain, or stabilize crude oil
8 prices at artificially high levels. As a direct and proximate result of Defendants' conduct,
9 Plaintiff and members of the State Law Class were deprived of free and open competition and
10 paid more to purchase refined gasoline and diesel fuel for commercial use in marine vessels than
11 they otherwise would have in the absence of Defendants' unlawful conduct. This injury is of the
12 type that the antitrust and consumer protection laws of the below states were designed to prevent
13 and flows from that which makes Defendants' conduct unlawful.

14 152. In addition, Defendants have profited significantly from the conspiracy.
15 Defendants' profits derived from their anticompetitive conduct and come at the expense of and to
16 the detriment of Plaintiff and members of the Classes.

17 153. Accordingly, Plaintiff and the members of the State Law Class in each of the
18 following jurisdictions seek damages (including statutory damages where applicable), to be
19 trebled or otherwise increased as permitted by each particular jurisdiction's law, injunction
20 (where applicable), and costs of suit, including reasonable attorneys' fees, to the extent permitted
21 by the following state laws.

22 154. Defendants' anticompetitive acts described above were knowing and willful and
23 constitute violations of the following state antitrust, unfair competition, and consumer protection
24 statutes.

25 155. In the Counts that follow, a reference to the "Class" is a reference to the State Law
26 Class unless otherwise specified.

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COUNT 2: ALABAMA

(On Behalf of Class Members that Purchased Commercial Marine Fuel in Alabama)

156. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

157. Due to Defendants’ unlawful conduct, (1) competition for crude oil and Commercial Marine Fuel was restrained, suppressed, and eliminated within Alabama; (2) Commercial Marine Fuel prices in the State of Alabama were raised, fixed, maintained, stabilized at artificially high levels; and (3) individuals have been deprived of free and open competition. Defendants’ agreement was an unlawful agreement to restrain trade in the State of Alabama in violation of ALA. CODE §6-5-60 *et seq.* Defendants’ conspiracy substantially affected Alabama commerce and accordingly, Plaintiffs and the members of the Class seek all forms of relief available under ALA. CODE §6-5-60 *et seq.*

COUNTS 3 AND 4: CALIFORNIA

(On Behalf of Class Members that Purchased Commercial Marine Fuel in California)

158. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

159. Defendants’ conspiracies had the following effects: (1) price competition for crude oil and Commercial Marine Fuel was restrained, suppressed, and eliminated throughout California; (2) Commercial Marine Fuel prices in the State of California were raised, fixed, maintained, and stabilized at artificially high levels; and (3) individuals have been deprived of free and open competition. During the Class Period, Defendants’ illegal conduct substantially affected California commerce and consumers.

160. Defendants have entered into an unlawful agreement in restraint of trade in violation of CAL. BUS. & PROF. CODE §16700 *et seq.* During the Class Period, Defendants and their co-conspirators entered into and engaged in a continuing unlawful trust in restraint of the trade and commerce. Each Defendant has acted in violation of CAL. BUS. & PROF. CODE §16720 to fix, reduce, stabilize, and maintain crude oil production. The violations of CAL. BUS. & PROF. CODE §16720 consisted, without limitation, of a continuing unlawful trust and concert of action

1 among Defendants and their co-conspirators, the substantial terms of which were to fix, reduce,
 2 maintain, and stabilize the production of domestic shale oil. For the purpose of forming and
 3 effectuating the unlawful trust, Defendants and their co-conspirators have done those things which
 4 they combined and conspired to do, including, but not limited to, the acts, practices, and course of
 5 conduct set forth above, and creating a price floor, fixing, raising, and stabilizing the price of
 6 crude oil and Commercial Marine Fuel. As a result of Defendants' violation of CAL. BUS. &
 7 PROF. CODE §16720, Plaintiffs and members of the Class seek treble damages and their cost of
 8 suit, including a reasonable attorneys' fee, pursuant to CAL. BUS. & PROF. CODE §16750(a).

9 161. Defendants have engaged in unfair competition or unfair or deceptive acts or
 10 practices in violation of Cal. Bus. & Prof. Code §17200 *et seq.*, and, accordingly, Plaintiffs and
 11 members of the Class seek all relief available under that statute.

COUNT 5: CONNECTICUT

(On Behalf of Class Members that Purchased Commercial Marine Fuel in Connecticut)

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 14 162. Plaintiff re-alleges and incorporates by reference all the allegations above as if
 15 fully set forth herein.

16 163. Defendants have entered into an unlawful agreement in restraint of trade in
 17 violation of Conn. Gen. Stat. §35-24 *et seq.* Defendants' combinations or conspiracies had the
 18 following effects: (1) price competition for crude oil and Commercial Marine Fuel was
 19 restrained, suppressed, and eliminated throughout Connecticut, and (2) Commercial Marine Fuel
 20 prices in the State of Connecticut were fixed, controlled, and maintained at artificially high
 21 levels; and (3) individuals have been deprived of free and open competition. During the Class
 22 Period, Defendants' illegal conduct substantially affected Connecticut commerce. By reason of
 23 the foregoing, Defendants have entered into agreements in restraint of trade in violation of Conn.
 24 Gen. Stat. §35-24 *et seq.* Accordingly, Plaintiffs and members of the Class seek all forms of
 25 relief available under Conn. Gen. Stat. §35-24 *et seq.*
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COUNTS 6 AND 7: FLORIDA

(On Behalf of Class Members that Purchased Commercial Marine Fuel in Florida)

164. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

165. Through their actions and actions of co-conspirators, crude oil and Commercial Marine Fuel prices in the State of Florida were raised, fixed, maintained, and stabilized at artificially high level, thereby injuring Plaintiffs and the Class. Throughout the Class Period, competition in the Commercial Marine Fuel market was restrained, suppressed, and eliminated throughout Florida. Plaintiffs and members of the Class, including those who purchased Commercial Marine Fuel in the State of Florida, paid supracompetitive, artificially inflated prices for Commercial Marine Fuel. During the Class Period, Defendants' illegal conduct substantially affected commerce in Florida.

166. Defendants have violated the FLA. STAT. §542.15 et seq., through their anticompetitive actions. Accordingly, Plaintiffs and members of the Class seek all forms of relief available under FLA. STAT. §542.15 et seq.

167. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of Fla. Stat. §501.201 et seq., and, accordingly, Plaintiffs and members of the Class seek all relief available under that statute.

COUNT 8: HAWAII

(On Behalf of Class Members that Purchased Commercial Marine Fuel in Hawaii)

168. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

169. Defendants have violated Haw. Rev. Stat. Ann. §480-1 et seq., through their actions. See HAW. REV. STAT. §§480-4, 480-13. Through Defendants' actions and the actions of their co-conspirators, Commercial Marine Fuel prices in the State of Hawaii were raised, fixed, maintained, and stabilized at artificially high levels, thereby injuring Plaintiffs and the Class. Throughout the Class Period, price competition for crude oil and Commercial Marine Fuel was restrained, suppressed, and eliminated throughout the State of Hawaii. Plaintiffs and members of

1 the Class, including those who resided in the State of Hawaii and purchased Commercial Marine
2 Fuel in Hawaii, paid supracompetitive, artificially inflated prices for their Commercial Marine
3 Fuel. During the Class Period, Defendants’ illegal conduct substantially affected commerce in
4 Hawaii. Accordingly, Plaintiffs and members of the Class seek all forms of relief available
5 under HAW. REV. STAT. ANN. §480-1 *et seq.*

6 **COUNT 9: MAINE**

7 **(On Behalf of Class Members that Purchased Commercial Marine Fuel in Maine)**

8 170. Plaintiff re-alleges and incorporates by reference all the allegations above as if
9 fully set forth herein.

10 171. Defendants have entered into an unlawful agreement in restraint of trade in
11 violation of ME. STAT. TIT. 10, §1101. Defendants’ combinations or conspiracies had the
12 following effects: (1) price competition for crude oil and Commercial Marine Fuel was
13 restrained, suppressed, and eliminated throughout the State of Maine; and (2) Commercial
14 Marine Fuel prices in the State of Maine were raised, fixed, maintained, and stabilized at
15 artificially high levels. During the Class Period, Defendants’ illegal conduct substantially
16 affected Maine commerce. Accordingly, Plaintiffs and members of the Class seek all relief
17 available under ME. STAT. TIT. 10, §1104.

18 **COUNTS 10 AND 11: MARYLAND**

19 **(On Behalf of Class Members that Purchased Commercial Marine Fuel in Maryland)**

20 172. Plaintiff re-alleges and incorporates by reference all the allegations above as if
21 fully set forth herein.

22 173. Defendants’ combinations or conspiracies detrimentally affected the price
23 competition in the State of Maryland for crude oil and Commercial Marine Fuel by restraining,
24 suppressing, and eliminating competition. Further, Defendants’ unlawful conduct raised, fixed,
25 maintained, and stabilized Commercial Marine Fuel prices in the State of Maryland at artificially
26 high levels. During the Class Period, Defendants’ illegal conduct substantially affected Maryland
27 commerce.

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COUNT 12: MISSISSIPPI

(On Behalf of Class Members that Purchased Commercial Marine Fuel in Mississippi)

174. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

175. Defendants have entered into an unlawful agreement in restraint of trade in violation of MISS. CODE ANN. §75-21-1 *et seq.* See Miss. Code Ann. §75-57-63. Defendants' combinations or conspiracies had the following effects: (1) price competition for crude oil and Commercial Marine Fuel was restrained, suppressed, and eliminated throughout the State of Mississippi, and (2) Commercial Marine Fuel prices were raised, fixed, maintained, and stabilized at artificially high levels throughout the State of Mississippi. During the Class Period, Defendants' illegal conduct substantially affected the State of Mississippi commerce. Accordingly, Plaintiffs and members of the Class seek all relief available under MISS. CODE ANN. §75-21-1 *et seq.*, and MISS. CODE ANN. §75-57-63.

COUNTS 13 AND 14: NEW HAMPSHIRE

(On Behalf of Class Members that Purchased Commercial Marine Fuel in New Hampshire)

176. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

177. Defendants' combinations or conspiracies detrimentally affected the price competition in the State of New Hampshire crude oil and Commercial Marine Fuel market by restraining, suppressing, and eliminating competition. Further, Defendants' unlawful conduct raised, fixed, maintained, and stabilized Commercial Marine Fuel prices in the State of New Hampshire at artificially high levels. During the Class Period, Defendants' illegal conduct substantially affected the State of New Hampshire commerce.

178. Defendants have entered into an unlawful agreement in restraint of trade in violation of N.H. REV. STAT. ANN. §356:1 *et seq.* Accordingly, Plaintiffs and members of the Class seek all relief available under N.H. REV. STAT. ANN. §356:1 *et seq.*

1 179. Defendants have engaged in unfair competition or unfair or deceptive acts or
2 practices in violation of N.H. Rev. Stat. Ann. §358-A:1 *et seq.*, and, accordingly, Plaintiffs and
3 members of the Class seek all relief available under that statute.

4 **COUNT 15: NEW YORK**

5 **(On Behalf of Class Members that Purchased Commercial Marine Fuel in New York)**

6 180. Plaintiff re-alleges and incorporates by reference all the allegations above as if
7 fully set forth herein.

8 181. Defendants have entered into an unlawful agreement in restraint of trade in
9 violation of N.Y. GEN. BUS. LAW §340 *et seq.* Defendants' combinations or conspiracies had the
10 following effects: (1) price competition in the markets for crude oil and Commercial Marine
11 Fuel was restrained, suppressed, and eliminated throughout the State of New York, and (2)
12 Commercial Marine Fuel prices were raised, fixed, maintained, and stabilized at artificially high
13 levels throughout the State of New York. During the Class Period, Defendants' illegal conduct
14 substantially affected the State of New York commerce. The conduct set forth above is a *per se*
15 violation of the Donnelly Act, N.Y. GEN. BUS. LAW §340 *et seq.* Accordingly, Plaintiffs and
16 members of the Class seek all relief available under N.Y. GEN. BUS. LAW §340 *et seq.*

17 **COUNT 16: NORTH CAROLINA**

18 **(On Behalf of Class Members that Purchased Commercial Marine Fuel in North Carolina)**

19 182. Plaintiff re-alleges and incorporates by reference all the allegations above as if
20 fully set forth herein.

21 183. Defendants have entered into an unlawful agreement in restraint of trade in
22 violation of N.C. GEN. STAT. §75-1 *et seq.* Defendants' combinations or conspiracies had the
23 following effects: (1) price competition in the markets for crude oil and Commercial Marine
24 Fuel was restrained, suppressed, and eliminated throughout the State of North Carolina, and (2)
25 Commercial Marine Fuel prices were raised, fixed, maintained, and stabilized at artificially high
26 levels throughout the State of North Carolina. During the Class Period, Defendants' illegal
27 conduct substantially affected the State of North Carolina commerce. Accordingly, Plaintiffs and
28 members of the Class seek all relief available under N.C. GEN. STAT. §75-1 *et seq.*

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COUNTS 17 AND 18: OREGON

(On Behalf of Class Members that Purchased Commercial Marine Fuel in Oregon)

184. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

185. Defendants' combinations or conspiracies had the following effects: (1) price competition for crude oil and Commercial Marine Fuel was restrained, suppressed, and eliminated throughout the State of Oregon; (2) Commercial Marine Fuel prices in the State of Oregon were raised, fixed, maintained, and stabilized at artificially high levels; and (3) individuals have been deprived of free and open competition. During the Class Period, Defendants' illegal conduct substantially affected the State of Oregon commerce.

186. Defendants have entered into an unlawful agreement in restraint of trade in violation of OR. REV. STAT. §646.725 *et seq.* Accordingly, Plaintiffs and members of the Class seek all forms of relief available under OR. REV. STAT. §646.725 *et seq.*

187. Defendants have engaged in unfair competition or unfair or deceptive acts or practices in violation of Or. Rev. Stat. §646.605 *et seq.*, and, accordingly, Plaintiffs and members of the Class seek all relief available under that statute.

COUNTS 19 AND 20: RHODE ISLAND

(On Behalf of Class Members that Purchased Commercial Marine Fuel in Rhode Island)

188. Plaintiff re-alleges and incorporates by reference all the allegations above as if fully set forth herein.

189. Defendants' combinations or conspiracies detrimentally affected price competition in the crude oil and Commercial Marine Fuel markets in the State of Rhode Island by restraining, suppressing, and eliminating competition. Further, Defendants' unlawful conduct raised, fixed, maintained, and stabilized Commercial Marine Fuel prices in the State of Rhode Island at artificially high levels. During the Class Period, Defendants' illegal conduct substantially affected commerce in the State of Rhode Island.

1 190. Defendants have entered into an unlawful agreement in restraint of trade in
2 violation of R.I. Gen. Laws §6-36-7 *et seq.* Accordingly, Plaintiffs and Members of the Class
3 seek all relief available under R.I. Gen. Laws §6-36-7 *et seq.*

4 191. Defendants have engaged in unfair competition or unfair or deceptive acts or
5 practices in violation of R.I. Gen. Laws §6-13.1-1, and, accordingly, Plaintiffs and members of
6 the Class seek all relief available under that statute.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff, individually and on behalf of the Nationwide Injunctive Relief
9 Class and State Law Class defined herein, respectfully request that this Court:

10 A. Certify this action as a class action pursuant to Rule 23 of the Federal Rules of
11 Civil Procedure and appoint Plaintiff and his attorneys to represent the Nationwide Injunctive
12 Relief Class and State Law Class.

13 B. Adjudge and decree that the acts of Defendants are illegal and unlawful, including
14 the agreement, contract, combination, or conspiracy, and acts done in furtherance thereof by
15 Defendants and their co-conspirators be adjudged to have been a *per se* violation (or alternatively
16 illegal as a quick look or full-fledged rule of reason violation) of various state antitrust and
17 competition laws as alleged above.

18 C. Permanently enjoin and restrain Defendants, their affiliates, successors,
19 transferees, assignees, and other officers, directors, agents, and employees thereof, and all other
20 persons acting or claiming to act on their behalf, from in any manner continuing, maintaining, or
21 renewing the conduct, contract, conspiracy, or combination alleged herein, or from entering into
22 any other contract, conspiracy, or combination having a similar purpose or effect, and from
23 adopting or following any practice, plan, program, or device having a similar purpose or effect.

24 D. Enter judgment against Defendants, jointly and severally, and in favor of Plaintiff
25 and members of the State Law Class for treble the amount of damages sustained by Plaintiff and
26 the State Law Class as allowed by law, together with costs of the action, including reasonable
27 attorneys' fees, pre- and post-judgment interest at the highest legal rate from and after the date of
28 service of this Complaint to the extent provided by law.

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1 E. Grant such other and further relief as the Court deems just and appropriate under
2 the circumstances.

3 **JURY TRIAL DEMAND**

4 Plaintiff demands a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil
5 Procedure, of all issues so triable.

6 Dated: February 6, 2023

By: /s/ Jennifer A. Fornetti

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