

**IN THE DISTRICT COURT OF BLAINE COUNTY
STATE OF OKLAHOMA**

MARK STEPHEN STRACK, TRUSTEE OF THE)	
PATRICIA ANN STRACK REVOCABLE TRUST)	
DTD 2/15/99 AND THE)	
BILLY JOE STRACK REVOCABLE TRUST)	
DTD 2/15/99, AND)	
DANIELA A. RENNER, SOLE SUCCESSOR)	
TRUSTEE OF THE PAUL ARIOLA LIVING TRUST)	
AND THE HAZEL ARIOLA LIVING TRUST,)	
)	
FOR THEMSELVES AND ALL OTHERS)	
SIMILARLY SITUATED,)	
)	
PLAINTIFFS,)	
)	
VS.)	CASE No. CJ-10-75
)	
CONTINENTAL RESOURCES, INC.,)	
)	
CONTINENTALS.)	

**DECLARATION OF DOUGLAS E. BURNS AND
TERRY L. STOWERS ON BEHALF OF CLASS COUNSEL**

Douglas E. Burns and Terry L. Stowers of Burns & Stowers, P.C. (“B&S”), on behalf of Class Counsel, declare as follows:

1. We, Douglas E. Burns (“Burns”) and Terry L. Stowers (“Stowers”), partners at B&S, have been heavily involved in this case since 2010. We jointly submit this declaration in support of Joint Motion for Preliminary (and Final) Approval of Settlement Agreement, Class Certification for Settlement Purposes, and Approval of Plan of Notice (“Approval Motion”), and Class Counsel’s Motion for Attorneys’ Fees, Litigation Costs and a Class Representatives Award from the Common Fund (“Attorneys’ Fee and Attorneys’ Fee and Expense Motion”) (collectively, the “Motions”).

2. The purpose of this Declaration is to describe the history of the litigation efforts in this case, as referenced in the Motions.

3. The statements made herein are made based upon our personal knowledge and information available to us to the best of our recollection, and while we do not believe there are any errors, omissions, incomplete or incorrect statements, to the extent any occur, they are wholly accidental and unintentional.

Introduction – Summary of Benefits Provided to the Class

4. Class Representatives and Class Counsel’s efforts have resulted in a Settlement with Defendant Continental Resources, Inc. (“Continental”), which is divided into three (3) time periods and two (2) Sub-Classes, wherein Continental has generally agreed as follows:

	“Claim Period 1”	“Claim Period 2”	“Future Period”
Sub-Class	Sub-Class 1	Sub-Class 2	All Class Members
Beginning of period	July 1993 Production	December 2015 Production	First Production Month after the end of the Adjustment and Additional Consideration Period (<i>estimated mid-2019</i>)
End of period	November 2015 Production	End of the Adjustment and Additional Consideration Period (<i>estimated mid-2019</i>)	Perpetual (unless the law changes)
To settle the Released Claims, Continental has agreed to:	Pay Sub-Class 1 Members their allocated share of \$49,800,000.00	Pay Sub-Class 2 Members for gathering charges deducted, with 9% interest, unless the lease has an Express Deduction Clause	Not deduct Gathering Charges, unless the lease has an Express Deduction Clause; Not deduct Processing or Transportation Charges if the lease has an Express No Deduction Clause prohibiting such deductions

5. The Settlement has a total value of at least \$107,300,000 to the Settlement Class:

	“Claim Period 1”	“Claim Period 2”	“Future Period”	Total Value*
Value of the Settlement to the Class	\$49,800,000.00 Sub-Class 1 Payment	\$7,500,000.00 estimated	\$50,000,000.00 estimated	\$107,300,000.00*

*Sub-Class 1 Payment + Estimated Values of Sub-Class 2 Payment and the Future Production Period benefits.

The Settlement provides \$49,800,000 in cash for Claim Period 1 (the Claim Period 1 “Gross Settlement Payment”) to the Settlement Class for past claims related to underpaid royalty payments during the production period July 1, 1993 through November 30, 2015. The Settlement also provides an estimated \$7,500,000 in cash at the end of Claim Period 2 (Claim Period 2 “Gross Settlement Payment”) to the Settlement Class in release of claims during Claim Period 2 to the limited extent such claims are in fact paid, but not otherwise. The Settlement Payments for Sub-Class 1 and Sub-Class 2 are collectively referred to as “Gross Settlement Payments,” “Gross Settlement Fund,” or “Common Fund”. The Gross Settlement Payments alone are a significant recovery for Class Members, especially considering the very real possibility that Class Members would receive no recovery at all if this Litigation had not been filed, and the very real possibility they would receive no recovery if the Litigation had not been settled. The Settlement also provides additional material benefits to the Settlement Class. First, Continental has agreed it will not deduct Gathering Charges going forward, beginning with the end of Claim Period 2 and extending into perpetuity. These binding changes to Continental’s royalty payment practices more closely align with the Settlement Class’ allegations of proper royalty payment under Oklahoma law. Class Counsel very conservatively estimate the present value of these one-way binding changes is at least \$50 million during the first 10 years of the Future Period. Moreover, Class Members are *not* barred from initiating future litigation for royalty payments occurring after the production month ending November 30, 2015 seeking to hold Continental to a different payment methodology than

that provided for in the Settlement. In that sense, the Future Benefits are one-way; they are binding on Continental, but not on Class Members. Lastly, the Settlement provides that Continental will incur the costs of the initial distributions to the Class Members (*i.e.*, part of the “Administrative Expenses”) and substantial costs associated with the implementation of the Future Production Period benefits (estimated by Class Counsel to be in excess of \$2 million), which is a substantial benefit to the Settlement Class inasmuch as most, if not all, of the Administrative Expenses that Continental has agreed to incur would otherwise be paid from the Gross Settlement Fund. We consider this to be an outstanding recovery for the Class.

6. Importantly, this is not a claims made settlement. That means that no Class Member is required to take any further action to participate in the Settlement. In many cases, the absent class members have to go through the additional step of filing a claim form that has to be approved before payment can issue. While claims made settlements are entirely appropriate and allowed under Oklahoma law, and often are necessary in many types of cases, we were able to negotiate a settlement where payment is automatic without any further effort by the absent Class Members.

7. Class Counsel believes the terms and conditions of the settlement are fair, reasonable, and adequate and in the Class’ best interests.

Summary of the Litigation

8. In October 2010, we began investigating payment irregularities in Continental’s royalty payments. After it was determined that Continental’s royalty payments did not appear to be in compliance with the oil and gas leases and the Production Revenue Standards Act, B&S entered into contingency fee agreements with Billy Strack, Trustee of the Patricia Ann Strack Revocable Trust dtd 2/15/99 and the Billy Joe Strack Revocable Trust dtd 2/15/99, and Hazel

Ariola, Trustee of the Paul Ariola Living Trust and the Hazel Ariola Living Trust. A copy of the Fee Agreements are attached to Class Counsel's Motion for Attorneys' Fees and Expenses. Billy Strack and Hazel Ariola have both since passed away and been replaced by the current trustees of the Trusts, Mark Stephen Strack and Daniela A. Renner, respectively.

9. On November 4, 2010, Plaintiffs filed a class action Petition in the District Court of Blaine County, Oklahoma. On that date Plaintiffs also filed a combined motion to certify this case as a class action and appoint interim class counsel. On January 6, 2011, the Court appointed us (Douglas E. Burns and Terry L. Stowers of Burns & Stowers, P.C.), and Kerry W. Caywood and Angela Caywood Jones of Park, Nelson, Caywood, Jones LLP, as Interim Class Counsel to act on behalf of the Putative Class.

10. In the Petition, Plaintiffs alleged Continental (also sometimes referred to by its Stock Symbol "CLR") used its position as operator and an oil and gas working interest owner to secretly underpay royalty due Plaintiffs and the Class on production of gas and its constituents, and on oil, from Oklahoma wells. Plaintiffs alleged CLR accomplished this by various schemes, including:

1. Deducting direct and indirect fees for marketing, gathering, compression, dehydration, processing, treatment and other similar services;
2. Not paying royalty on wellhead gas that was used off the lease premises or in the manufacture of products;
3. Not paying royalty on the highest price available, or even the highest price which CLR received, on gas and oil sales;
4. Not paying royalty at all on skim oil produced from class wells that CLR collected and sold at salt water disposal wells and reclamation facilities;
5. Falsely reporting the gross volume and gross value of production on the remittance advice attached to royalty checks CLR sent royalty owners on a monthly basis.

Plaintiffs alleged all of the direct and indirect deductions and reductions on gas sales were associated with transforming raw wellhead gas into marketable condition for sale; that the failure

to pay royalty on all volumes of hydrocarbons produced at the highest price available was in violation of the express and implied covenants of the leases; and that the improper reporting of volumes and values on the check stubs was a direct violation of the Oklahoma Production Revenue Standards Act. Based on these allegations, Plaintiffs sought recovery for breach of contract, tortious breach of contract, breach of fiduciary duty or quasi fiduciary duty, fraud (actual and constructive) and deceit, conversion, conspiracy, breach of statutory duties, accounting and injunctive relief.

11. On December 20, 2010, CLR generally denied the allegations of Plaintiffs' Petition, and raised eighteen affirmative defenses, including:

1. That the case was not appropriate for class action treatment;
2. Statutes of limitation, waiver, estoppel, acquiescence and/or ratification;
3. Acceptance of payment;
4. Alleging Oklahoma's punitive damage statute to be unconstitutional; and
5. Alleging the Production Revenue Standards Act to be unconstitutional.

12. On January 4, 2011, Plaintiffs filed Initial Disclosures in the case that, based upon information then reasonably available to Plaintiffs, the total damages being sought by Plaintiffs for the Putative Class were presently unknown, but estimated to exceed \$5 million, and that Plaintiffs were seeking a full accounting from CLR such that unpaid royalty due could be accurately determined.

13. During the litigation, CLR was represented by highly skilled defense counsel which included the following:

1. Terry Tippens, Eric Eissenstat, Jay Walters and Steve Adams of Fellers, Snider, Blankenship, Bailey and Tippens;
2. Mark D. Christiansen of Crowe & Dunlevy;
3. Glenn A. Devoll of Gungall, Jackson, Collins, Box and Devoll;
4. Eric Eissenstat, Taylor Pope and Brooks Richardson, in house counsel for Continental;

5. Jay Walters, Steve Adams and Graydon D. Luthey, Jr. of Gable Gotwals; and
6. Guy S. Lipe of Vinson & Elkins, LLP in Houston, Texas.

14. Plaintiffs obtained substantial fact discovery in this case, including reviewing over one million of pages of documents and electronic data; taking and defending multiple depositions; and exchanging written discovery. Plaintiffs also engaged in substantial accounting review and analysis; land and lease examination and analysis; engineering evaluation and analysis and consulting with experts in the analysis and modeling of Class damages. In addition, and as detailed below, Plaintiffs engaged in substantial motion practice including defending a motion to dismiss or strike class allegations, multiple motions to compel discovery, motions by CLR to conduct discovery from Putative Class Members, multiple motions related to CLR's proposed Confidentiality Agreement and Protective Order on documents and information disclosed through discovery, motions by CLR to permit communication with Putative Class Members regarding Class Claims, an interlocutory appeal on discovery issues, class certification and briefing, and an appeal of the Court's order granting class certification to the Oklahoma Court of Appeals, including a Petition for Certiorari to the Oklahoma Supreme Court. This hard-fought litigation led to two formal mediation sessions and over fifty (50) face to face or telephonic settlement conferences over the course of two (2) years; settlement negotiations; damages modeling; and ultimately, the Settlement now before the Court for approval.

15. On October 11, 2013, CLR filed a Motion to Dismiss or Strike Class Allegations for Underpayment of Oil Royalties and for a Protective Order Limiting Oil Discovery; Plaintiff responded on October 29, 2013; CLR filed its response on November 8, 2013; the Court heard oral arguments on this Motion on November 14, 2013 and denied the Motion.

16. On February 5, 2014, the Honorable Mark Moore recused from the case due to CLR having proposed to drill a well on land owned by his wife, and the case was transferred to the

Honorable Paul K. Woodward for further assignment. On February 20, 2014 the case was assigned to the Honorable Robert E. Davis. Due to a perceived judicial conflict of interest, Plaintiffs moved for the recusal of the Honorable Robert E. Davis. After substantial briefing, on July 31, 2014, the Honorable Robert E. Davis recused himself from the case. Presiding Judge Ray Dean Linder first assigned the case to the Honorable Jack Hammontree on August 5, 2014, and then on August 12, 2014 re-assigned the case to the Honorable Dennis Hladik. The Honorable Dennis Hladik has, and continues to, serve as the trial court since August 12, 2014.

17. On October 31, 2014, CLR filed an Amended Answer to Plaintiffs' Petition asserting additional affirmative defenses, and further detailing CLR's challenge to the constitutionality of the Production Revenue Standards Act (PRSA). On November 3, 2014, CLR gave notice to Attorney General Scott Pruitt of this constitutional challenge.

18. On November 5, 2014, Plaintiffs filed an Amended Petition which set out in great detail (in Exhibit 1 – Supplement to Plaintiffs' Amended Petition) a twenty one (21) page factual account of evidence obtained through discovery of CLR's history of skim oil sales, oil barrel-back transactions, gas and gas liquid sales to CLR marketing affiliates, using affiliates to provide mid-stream services necessary to make gas marketable, under reporting volumes of gas and oil production, under reporting the gross value CLR received for sale of gas and oil, and violation of the Production Revenue Standards Act. A copy of the Amended Petition is attached to the Settlement Agreement as Exhibit "A". On November 14, 2014, CLR filed its Answer to Plaintiffs' Amended Petition, and re-newed its constitutional challenge to the PRSA.

19. The parties served substantial discovery in this case. On January 4, 2011, Plaintiffs served thirteen (13) highly detailed interrogatories and eleven (11) highly detailed document requests, to which CLR responded on April 19, 2011. Immediately following this response, the

parties agreed to an informal stay of the proceedings while the Plaintiffs obtained discovery and the parties explored the possibility of settlement. In furtherance of that objective, CLR provided Class Counsel with numerous massive data dumps and over one million pages of documents and electronic data over a period of approximately eighteen months. Class Counsel reviewed and evaluated all of this documentation and data, and with the assistance of expert accounting witness Barbara Ley, constructed a damage model for each of Plaintiffs' claims for use in settlement negotiations. The parties initiated settlement negotiations under the supervision of former Federal Judge Layn Phillips, an experienced and highly respected mediator. Judge Phillips previously served as a District Judge in the Western District of Oklahoma, where he presided over at least 140 trials. Having successfully mediated a number of royalty owner class actions, Judge Phillips provided invaluable assistance and experience to the Parties.

20. The Parties met with Judge Phillips for a formal mediation session on July 19, 2013 in Oklahoma City, Oklahoma. Prior to this session, the Parties submitted extensive mediation briefs to Judge Phillips outlining their respective positions on liability, damages and the strengths and weaknesses of their respective cases. After a full day of mediation and discussion with Judge Phillips, the parties were unable to reach an agreement.

21. On July 23, 2013, Class Counsel sent a letter to CLR about deficiencies in CLR's discovery responses, after which CLR filed supplemental responses on September 5, 2013. On October 10, 2013, Plaintiff filed a Motion to Compel which was hotly contested by CLR, and which thereafter was granted on November 14, 2013. Pursuant to the Court's order, CLR filed amended responses and objections to Plaintiffs' first set of interrogatories on January 1, 2014 and April 16, 2014. On October 14, 2013, Plaintiff served two (2) additional interrogatories and five (5) requests for admission on CLR, to which CLR objected and responded on November 13, 2013.

22. On January 30, 2014, CLR served twenty six (26) highly detailed requests for production of documents and twenty (20) highly detailed interrogatories upon Plaintiffs, to which Plaintiffs responded on April 4, 2014, and supplemented on September 10, 2014. Plaintiffs' counsel gathered, reviewed and produced over 2,600 pages of documents responsive to these requests. CLR also served at least ten (10) Subpoenas Duces Tecum on seven (7) different gas purchasers and three (3) different royalty owner organizations, including the Coalition of Oklahoma Surface and Royalty Owners (COSMO), of which Stowers is Executive Director. A total of over 5,200 pages of documents were produced pursuant to these subpoenas to the royalty owner organizations, all of which were reviewed by Class Counsel.

23. On August 18, 2014, CLR filed a motion for leave to conduct discovery on unnamed class members, which was opposed by Class Counsel. After briefing by both parties and argument before the Court, the motion was denied.

24. On August 18, 2014, CLR filed a motion to vacate or modify an agreed temporary injunction regarding communications with Putative Class Members. Class Counsel opposed such motion with briefing and argument before the Court; the motion was denied.

25. The Parties had numerous disputes regarding the terms of a proposed Protective Order, pursuant to which CLR could mark documents and data as confidential and require all such information to be maintained in a confidential manner, and to be filed under seal if used in Court proceedings. Extensive briefing and hearings before the Court resulted in a workable Protective Order being entered in the case.

26. Class Counsel took nine (9) depositions of CLR current and former employees, which included the corporate representatives of CLR on numerous designated topics. CLR vigorously opposed the scope of testimony sought in depositions of its corporate representatives,

and filed a motion with the Court to limit such scope, which the Court denied on March 30, 2015. On April 1, 2015, CLR filed an Emergency Motion to Stay District Court Proceedings, and an Emergency Application to Assume Original Jurisdiction and Petition for Writ of Mandamus with the Oklahoma Supreme Court; Plaintiffs responded to the Emergency Motion to Stay on April 2, 2015; the motions were argued before a Supreme Court referee on April 3, 2015; the Supreme Court denied the Motion for Emergency stay on April 4, 2015; Plaintiffs' filed their response to CLR Application of Assume Original Jurisdiction on April 24, 2015; this motion was argued before a referee of the Supreme Court on April 28, 2015; and on May 11, 2015, the Supreme Court denied the Motion to Assume Original Jurisdiction.

27. On April 30, 2015, the Court held hearings on CLR's Motion to Compel Additional Interrogatory Responses from Plaintiffs, which the Court denied; and arguments on Plaintiffs Motion to Compel Deposition Testimony from Sue Ann Arnall regarding her knowledge of fraud, deceit or criminal conduct by CLR, which motion was granted.

28. On May 14, 2015, CLR filed a Motion for Partial Summary Judgment that Plaintiffs' claims that CLR breached its duties when it based royalty payments on sales to an affiliated entity were barred by the statute of limitations. CLR argued that Plaintiffs knew or should have known that the purchaser "Continental Gas", shown on royalty check stubs sent to all class members, was an affiliate of Continental Resources, Inc. CLR argued that all such claims prior to November 1, 2005 were barred by the statute of limitations. On June 19, 2015, Strack filed its Response to CLR's Motion for Pretrial Summary Judgment on Limitations, and filed a Counter-Motion for Interlocutory Summary Adjudication that: (a) CLR is foreclosed from pursuing its affirmative defense based on limitations and; (b) CLR's check stubs were (i) in violation of 52 O.S. 570.12 (PRSA), and (ii) deceitful within the meaning of Deceit defined by 76 O.S. § 3. The

Court granted numerous unopposed motions for extension of time for CLR to respond to this motion, and on August 21, 2015, stayed further proceedings in the case pending the outcome of renewed settlement negotiations between the Parties.

29. On June 1st and 2nd, 2015, the Court conducted an evidentiary hearing on Plaintiffs' motion to certify the case as a "B1" and "B2" class action. Prior to this hearing the Plaintiffs submitted numerous Exhibits in support of certification which collectively was comprised of documentation approximately three feet (3') in thickness in numerous white notebooks, containing:

1. four (4) affidavits;
2. numerous summaries;
3. royalty check stubs;
4. oil and gas purchase contracts;
5. purchaser statements;
6. spreadsheets;
7. eleven (11) deposition transcripts;
8. one hundred thirty two (132) deposition exhibits;
9. deposition testimony clip reports;
10. demonstrative exhibits; and
11. numerous electronic databases.

Likewise, Continental CLR introduced documentation in black notebooks totaling approximately three feet (3') thick, containing:

1. affidavits of four (4) expert witnesses;
2. documents obtained in third party discovery from numerous gas purchasers and royalty owner associations;
3. a summary of hundreds of thousands of CLR oil and gas leases, with an electronic copy of each lease;
4. an electronic gas and oil pay history database;
5. gas and oil purchase contracts;
6. royalty check stubs;

7. gathering system maps; and
8. demonstrative exhibits related thereto.

Plaintiffs' Counsel reviewed, analyzed and planned on how to utilize all of this evidentiary material in the prosecution of this case.

30. After fully considering the evidentiary record, on June 11, 2015, the Court entered an 88-page Order certifying the case as a B1 and B2 Class Action.

31. On July 10, 2015, CLR filed a Petition in Error with the Oklahoma Supreme Court, and on July 28, 2015 an Amended Petition in Error. Plaintiffs filed a Motion for the Supreme Court to retain the appeal, which motion was denied. After full briefing by CLR and Plaintiffs, on February 8, 2017, the Civil Court of Appeals Division II reversed the trial court's certification of the case as a B1 and B2 class action, and remanded the case for further proceedings, noting "*that this Opinion does not foreclose consideration of forming a class utilizing the provisions of 12 O.S. Supp. 2015 § 2023(B)(3).*" On February 28, 2017, Plaintiffs filed a Petition for Re-hearing with the Civil Court of Appeals, which on May 3, 2017 was denied. On May 23, 2017 Plaintiffs filed a Petition for Writ of Certiorari with the Oklahoma Supreme Court, which it denied, with the mandate issuing on October 30, 2017.

32. On October 12, 2017, Plaintiffs filed an Amended Motion to Certify the Case as a B3 Class Action, which motion is presently pending before the Court.

33. Altogether, Class Counsel engaged in over seven (7) years of formal discovery in this case, including:

1. Reviewing over 93.9 Gigabytes of data, including multiple databases and spreadsheets, and 224,538 documents, with 1,017,957 individual pages of TIFF images (*if printed out, 1,000,000 pages of documents is the equivalent of a stack of letter-sized documents 333 feet high; that's 71 feet taller than Continental's 19-floor office building in downtown Oklahoma City which is 262 feet tall*);



2. Taking of over ten (10) days of depositions including Continental corporate representatives and fact witnesses;
3. Defending the depositions of both Plaintiffs and the deposition of Stowers in his capacity as Director of the Coalition of Oklahoma Surface and Mineral Owners (COSMO); and
4. Obtaining and reviewing other publicly available sources of information.

34. The Pleading Files alone constitute over three feet (3') of file space, and the totality of all of the printed documentation Plaintiffs' Counsel maintains on the case (and reviewed and/or prepared for this case) fills over sixty feet (60') of file space (*i.e.*, the equivalent of eight (8) four drawer file cabinets), not including the electronic file space that the 93.9 Gigabytes of data would consume if all were printed out. For the Class Certification, both parties submitted substantial Bench Briefs to the Court, Response Briefs and Reply Briefs, Written Opening Statements, Proposed Findings of Fact and Conclusions of Law, Witness Lists, Exhibit Lists, Designations and Counter-Designations of Deposition Testimony, and Written Objections to Evidence and Testimony.



35. Immediately following the Court certifying the case as a class action on June 11, 2015, the Parties resumed settlement negotiations and scheduled a second mediation before Judge Phillips. The Parties submitted extensive mediation briefs to Judge Phillips outlining their respective positions on liability, damages and the strengths and weaknesses of their respective cases. After a full day of mediation on December 7, 2015, the Parties again were unable to reach an agreement; however, at the conclusion of the failed mediation, CLR's Assistant General Counsel, Taylor Pope, expressed a desire to engage in informal settlement discussions that might eventually lead to settlement. At Mr. Pope's request, Class Counsel had over fifty (50) face to face, and/or telephonic settlement conferences extending over a period of twenty-seven (27) months from December 21, 2015 until March 29, 2018 when the Settlement Agreement was finally executed. These conferences not only were focused on the cash payment that would be required by CLR to the Class for settlement of existing claims, but also on a requirement by Class Representatives' and Class Counsel that CLR change its royalty accounting system to: (1) fully and accurately report the full volumes of production, gross value of production and deductions from production on Class Members' check stubs; (2) no longer deduct Gathering Charges from the royalties of Class Members unless lease clauses expressly allowed it; and (3) no longer deduct Processing or Transportation Charges where lease language expressly disallowed such deductions. These requirements were highly problematic to settlement inasmuch as CLR's present accounting system would have to undergo extensive and expensive hardware and software upgrades to achieve such a result, and a substantial investment of manpower to review all CLR's leases and re-program its accounting system. After two and one-fourth (2 ¼) years of painstaking negotiations, document exchanges, data exchanges, draft "term sheets" exchanges, and regular meetings with Class Representatives to get direction and authority, the Parties were able to reach settlement on a

detailed “Term Sheet” on February 16, 2018. However, much work remained to be done to complete and formalize the settlement. The Parties, Class Counsel and their experts continued to work on and prepare and finalize the settlement documents in this case, a process that took until March 29, 2018 to complete. This settlement would not have been possible without the extensive discovery campaign, the extensive document review and lease analysis, the class certification hearing, and most importantly the numerous settlement conferences with CLR’s Assistant General Counsel, Taylor Pope, where the Parties “rolled up their sleeves” and engaged in “out-of-box” approaches to find permanent solutions that would greatly reduce the likelihood of CLR royalty underpayments to the Class Members in the future.

The Notice Campaign

36. On April 3, 2018, the Court preliminarily approved the settlement and approved the form and manner of the Notice for Mailing and Notice for Publication (*see* Order on Plan of Notice). Since the issuance of that order, Class Counsel has directed an extensive effort to mail the Court-approved Notice of Proposed Class Action Settlement (“Notice”) to all Class Members who Continental has identified as having received payment of royalties from CLR on production of oil and gas from Oklahoma wells which during the Class Period; *i.e.*, from and after July 1, 1993 and prior to February 1, 2018. The Notice provided Class Members with all information needed to fully understand the terms of the Settlement and their rights thereunder (a copy of the Notice is attached as Exhibit “A” to the “Affidavit of Markham Sherwood RE Mailing of Notice and Report on Opt Outs and Objections Received”, which is being filed simultaneously herewith). The Court stated in the Order on Plan of Notice that the Notice “will adequately inform the members of the Settlement Class of the scope and effect of the proposed settlement between Class Representatives and Continental, as well as their rights related thereto”. *Id.* at ¶1. The Court also found “the Plan

of Notice constitutes the best notice practicable under the circumstances” and further found it “complies with 12 O.S. § 2023 (C)(4)... and constitutes due and sufficient due process notice for all purposes to all persons legally entitled to receive such notice”. *Id. at* ¶7. The Notice clearly informs the Class about the nature of the Litigation and the proposed Settlement, directs Class Members to the location of additional information, which is easily accessible, and provides instructions for Class Members to object or opt out.

Notice by Mail:

37. Pursuant to the Order on Plan of Notice, Continental utilized its current and historic royalty payment decks and other sources for purposes of determining the identity of putative Class Members and their last known mailing address (“Class Member List”). Continental provided the Class Member List to Class Counsel.

38. Class Counsel retained KCC Class Action Services, LLC (“KCC”), located at 3301 Kerner Boulevard, San Rafael, CA 94901, as the Notice Administrator for the Settlement. The “Affidavit of Markham Sherwood RE Mailing of Notice and Report on Opt Outs and Objections Received,” is being filed simultaneously herewith. In his Affidavit, Mr. Sherwood testifies as follows:

3. *On or before April 4, 2018, as Notice Administrator, KCC received computerized excel spreadsheets containing the Class Member List with the last known addresses of Class Members from Class Counsel, containing 32,882 records.*
4. *On or before April 12, 2018, KCC caused the addresses in the Class Member Lists to be updated using the National Change of Address system, which updates addresses for all people who had moved during the previous four years and filed a change of address with the U.S. Postal Service. New addresses were found for 1,635 class members. The Class Member List was updated with these new addresses.*
5. *On or before April 12, 2018, KCC performed data analysis on the Class Member Lists to identify and remove records with bad or duplicate addresses. This analysis resulted in the removal of 235 records with bad or duplicate addresses.*
6. *On April 17, 2018, KCC caused to be mailed by first class mail 32,647 copies of the Notice of: (1) Proposed Settlement of Class Action; (2) Motion for Attorneys’ Fees and Expenses;*

and (3) Fairness Hearing (the “Notice”), to all the names and addresses shown on the updated class lists. A true and correct copy of the Notice is attached hereto as Exhibit A.

....

9. On May 1, 2018, KCC received from Class Counsel additional excel spreadsheets from Class Counsel where Defendant was able to identify a number of additional or possible Class Members. KCC aggregated the spreadsheets into one file and standardized the address formatting, de-duplicated the list first amongst the new address information and subsequently against the original Notice mailing data, resulting in 1,243 new names and addresses to be sent Notice as part of a supplemental mailing. On May 8, 2018, KCC caused to be mailed by first class mail 1,243 copies of the Notice to all of the newly identified names and addresses on the supplemental list.
10. As of May 30, 2018, 3,621 Notices were returned to KCC by the U.S. Postal Service without forwarding addresses. KCC researched, via skip trace, addresses for the 3,621 class members, and 2,009 new addresses were found. The Class Member List was updated with these new addresses and Notices were re-mailed to the 2,009 class members using the new addresses.
11. Of the total number of **33,890 Notices** mailed, it is presumed that more than 95% of the Class Members on the Class Lists received the Notices. A copy of the names and addresses to whom Notice was mailed will be filed under seal with the Court Clerk of Blaine County pursuant to ¶8 of the Order on Plan of Notice.
12. As of the date of this affidavit, KCC has received **254** requests for exclusion from the Settlement. A report containing information regarding the requests for exclusion is attached hereto as Exhibit B. . . . Exhibit B only includes the requests for exclusions received by KCC and does not include any Opt-outs that may have only been mailed to the Court Clerk of Blaine County.
13. As of the date of this affidavit, KCC has received **NO** Objections to the Settlement and **Three (3)** Objections to the Request for Attorneys’ Fees and Expenses. . . . and does not include any Objections that may have only been mailed to the Court Clerk of Blaine County.
14. As of the date of this affidavit, KCC has received **34** objections to the allocation of the settlement payment from a particular royalty interest solely to the Current Sub-Class 1 Owner. A report containing information regarding objections is attached hereto as Exhibit D. . . . Exhibit D only includes the Objections to pay the Current Sub-Class 1 Owner received by KCC and does not include any Objections to pay the Current Sub-Class 1 Owner that may have only been mailed to the Court Clerk of Blaine County.

Affidavit of Markham Sherwood RE Mailing of Notice and Report on Opt Outs and Objections Received.

Publication Notice:

39. In addition, to ensure the best notice reasonably practicable under the circumstances, the Court-approved Summary Notice was published in three (3) papers of general

circulation in Oklahoma, *The Oklahoman* (published on 4/7/2018), *The Tulsa World* (published on 4/12/2018) and *The Journal Record* (published on 4/13/2018). See Affidavits of Publication filed with the Court Clerk of Blaine County on April 30, 2018.

Toll-Free Phone Number and Website:

40. The Notice, along with other documents germane to the Settlement, were posted on the website created for and dedicated to this Settlement. See www.StrackvsContinental.com.

41. This website is maintained by the Notice Administrator as a site where additional information regarding the Settlement can be found. In his Affidavit, Mr. Sherwood testifies on behalf of the Notice Administrator as follows:

7. *On April 6, 2018 KCC established a toll-free call-in number (1-866-666-6721) to address class member inquiries and to provide information about the settlement. As of May 30, 2018, KCC has received and handled 298 telephone calls to this number.*
8. *On April 6, 2018, KCC caused a settlement website to be established at www.strackvscontinental.com. The website is posted with copies of the Notice, Settlement Agreement, Order Preliminarily Approving Settlement, Order on Plan of Notice, List of Class Wells, Joint Motion to Approve Settlement, Order on Joint Motion for Certification of Class, and the Motion for Attorneys' Fees and Expenses. The website also includes lists of important dates, deadlines, and frequently asked questions about the proposed settlement. During the period of April 6, 2018 through May 30, 2018, there were **23,200 hits from 2,055 unique visitors** to the website. This website will remain active during the administration of the Settlement and available to Class Counsel add documents and provide information to the Class Members.*

Affidavit of Markham Sherwood RE Mailing of Notice and Report on Opt Outs and Objections Received.

42. Class Counsel and its team, in conjunction with the Notice Administrator, carried out the approved manner of disseminating the Notice by executing the Notice campaign described above. Moreover, Class Counsel and the Notice Administrator responded to any inquiries received from Class Members regarding the Notice and/or Settlement Agreement.

43. The Notice campaign carried out by Class Counsel and its team is comparable to— if not exceeds—the successful notice campaigns completed in other oil and gas royalty class action

settlements approved by district courts in Oklahoma.

44. We believe this notice effort and campaign provided the most reasonable notice practicable under the circumstances, including individual notice to all Class Members who could be identified through reasonable effort and provided the information required by 12 O.S. § 2023 (C) (4).

The Overwhelming Positive Reaction of the Settlement Class to the Settlement

45. The Notice of Proposed Class Action Settlement was mailed to 33,890 individuals identified as possible class members. **We have received NO objections to the Settlement.** The Settlement Administrator/Court Clerk of Blaine County collectively have received between **250 and 300 opt outs** of the Settlement Class (*the Parties are currently reconciling the list of opt outs*), most of which were for individuals presently involved in pending litigation against Continental. Thus, approximately **99.1%** of Class Members have remained in the Class. *See Report by Class Counsel of Class Member Filings (Opt-Outs & Objections).*

Class Counsel Endorses the Settlement

46. An important factor in approving a proposed settlement is the opinion of experienced Class Counsel. Here, Class Counsel fully supports and endorses a Settlement that has a total value of at least \$107,300,000 to the Settlement Class. Class Counsel believes the Settlement is fair, reasonable, and adequate and should be approved. Class Counsel is aware of the risks and uncertainties that accompany proceeding to trial in this Litigation. The Settlement avoids the risk of receiving no recovery after long, difficult litigation and provides the Settlement Class with a substantial recovery, as well as binding changes to Continental's royalty payment policies and procedures on Class wells. The possibility of either no recovery at all or a limited recovery was very real, especially in light of Continental's defenses to the Settlement Class' claims

that would have to be overcome if the Litigation continued to trial. Through the \$49.8 million cash Settlement to Sub-Class 1, plus the benefits conferred on Sub-Class 2 Class Members (with an estimated \$7.5 million value) and the Future Production Period benefits agreed to by Continental which extends into perpetuity, unless or until there is a change in the law (with a conservatively estimated net present value of at least \$50 million in the next 10 years), Class Counsel and Class Representative not only obtained a significant benefit for the Class, but also avoided the risk of a negative outcome. Therefore, Class Counsel fully supports the Settlement.

Damage Model and Recovery

47. Class Counsel reviewed and evaluated over 93.9 Gigabytes of data, including multiple databases and spreadsheets, 224,538 documents (1,017,957 pages of TIFF images), over ten (10) days of depositions including Continental corporate representatives and fact witnesses, as well as other publicly available sources of information. (“Discovery Information”). Substantial portions of the Discovery Information was provided to the Class’ expert accounting witness Barbara Ley. Ms. Ley, with input from Class Counsel, constructed a damage model for each of Plaintiffs’ claims for use by Class Counsel in settlement negotiations. After making certain adjustments to the raw modeling calculations based upon further review of the Discovery Information, the **Class Gross Damage Model for Time Period 1** reflected potential Class Damages of:

\$ 56.5 Million Unpaid Royalties
\$ 84.7 Million 12% Statutory Interest
\$141.2 Million Class Gross Damages for Time Period 1

48. Class Counsel reviewed the quality of the Class Members’ oil and gas leases within each system and determined that further refinements to the Class Gross Damage Model for Time Period 1 were necessary as to the Woodford Shale Gas Gathering System and 3rd-Party Owned Gathering Systems. After making those necessary adjustments, the **Class Adjusted Damage**

Model for Time Period 1 reflected potential Class Damages of:

\$ 39.6 Million Unpaid Royalties
\$ 65.4 Million 12% Statutory Interest
\$105.0 Million Class Adjusted Damages for Time Period 1

49. In negotiating a final settlement of the Litigation, Class Counsel: (a) extensively reviewed the Discovery Information; (b) considered the complex law in Oklahoma regarding the obligations of operators in paying royalties; and (c) took into account the relative merits of specific claims and causes of action, as well as the various litigation risks associated with continuing the Class Action Litigation (“Litigation Risk Analysis”). After considering the Litigation Risk Analysis, Class Counsel recommended, and Class Representatives approved, a settlement for the Time Period 1 Claims as follows:

\$ 3,914,120.31 - Woodford Shale Gathering System
\$ 6,656,720.84 - Matli Gathering System
\$11,199,530.85 - Eagle Chief Gathering System
\$21,427,238.03 - Other Third-party Owned Gathering Systems
\$ 4,443,748.18 - Waste or Skim Oil Claim
\$ 2,158,641.79 - Additional Consideration on Oil Sales
\$49,800,000.00 - Total Gross Sub-Class 1 Payment

50. **The Total Gross Sub-Class 1 Payment represents a 47.5% recovery of the Class Adjusted Damages for Time Period 1.** Viewed another way, the Total Gross Sub-Class 1 Payment represents a recovery of 100% of the Class Adjusted Royalties Due for Time Period 1, plus 3% compounded annual interest thereon.

51. In view of the Litigation Risk involved in this Litigation, Class Counsel consider this to be a very good recovery for Sub-Class 1, and considering the value of the Settlement as to Sub-Class 2 and the benefits for the Future Production Period, which together exceed the value of the Sub-Class 1 recovery, Class Counsel consider this to be an excellent Settlement for the Class.

The Plan of Allocation and Distribution

52. Class Counsel submit, and Class Administrator Barbara Ley opines, that the proposed Plan of Allocation and Distribution attached to the Settlement Agreement as Exhibit “D” is fair, reasonable, and adequate, and in the best interest of the Class. See Affidavit of Barbara A. Ley filed simultaneously herewith.

53. The Settlement Agreement in paragraphs 2.2, 2.3 and 3, sets out a very specific outline of the plan of allocation, payment and distribution of the Settlement Payments, and attaches a Plan of Allocation and Distribution as Exhibit D to the Settlement Agreement. This Plan of Allocation and Distribution was formulated by Class Counsel and Class Administrator Barbara Ley, after their review the Discovery Information. In structuring the Plan of Allocation and Distribution, Class Counsel have considered the Litigation Risk Analysis. See Plan of Allocation and Distribution, ¶14.

54. Relying upon this Discovery Information and Class Counsel’s Litigation Risk Analysis, the Settlement Administrator developed a model to calculate the asserted damages for the Sub-Class 1 Claim Period (with such amount being disputed by Continental) and the distribution of the Net Sub-Class 1 Payments at the Class Well level. In some cases, calculations were necessarily based upon estimates and/or other publicly available information because of information gaps and varying methods and sources of production data throughout the Sub-Class 1 Claim Period (“Distribution Model”). See Plan of Allocation and Distribution, ¶15.

55. The Settlement Administrator’s Distribution Model represents a reasonable method to facilitate the distribution of Net Sub-Class 1 Payments to the Eligible Sub-Class 1 Members, but should not be treated as payment of additional royalty on past production or interest. Rather, all amounts represent a compromise of multiple disputed Released Claims for Sub-Class 1. See

Plan of Allocation and Distribution, ¶16.

56. Utilizing the Discovery Information, and considering Class Counsel’s Litigation Risk Analysis, and pursuant to paragraph 3.2(i) of the Settlement Agreement, Class Counsel and the Settlement Administrator have determined a reasonable Sub-Class 1 Gross Payment by System or Claim Allocation to be as follows:

\$ 3,914,120.31 - Woodford Shale Gathering System
\$ 6,656,720.84 - Matli Gathering System
\$11,199,530.85 - Eagle Chief Gathering System
\$21,427,238.03 - Other Third-party Owned Gathering Systems
\$ 4,443,748.18 - Waste or Skim Oil Claim
\$ 2,158,641.79 - Additional Consideration on Oil Sales
\$49,800,000.00 - Total Gross Sub-Class 1 Payment

See Plan of Allocation and Distribution, ¶17.

57. The Settlement Administrator will determine the Net Sub-Class 1 Payment pursuant to paragraph 1.24(i) of the Settlement Agreement and thereafter proportionately reduce the Sub-Class 1 Gross Payment by System or Claim Allocation to determine the “**Sub-Class 1 Net Payment by System or Claim Allocation**” pursuant to paragraph 3.2(i) of the Settlement Agreement. *See* Plan of Allocation and Distribution, ¶18.

58. With due consideration given to various production characteristics, such as volume of production, timing of production, and the other factors utilized in constructing the Settlement Administrator’s Damage Model, the Settlement Administrator shall further allocate each of the resulting Sub-Class 1 Net Payment by System or Claim Allocations to each Class Well determined to be connected or related to that system or claim pursuant to paragraph 3.2(ii) of the Settlement Agreement. The Settlement Administrator shall provide to Continental a report of the Sub-Class 1 Net Payment by System or Claim Allocation to the Class Well level. *See* Plan of Allocation and Distribution, ¶19.

59. Utilizing the report of the Sub-Class 1 Net Payment by System or Claim Allocation

to the Class Well level provided by the Settlement Administrator, Continental shall distribute the Net Sub-Class 1 Payments to the Eligible Sub-Class 1 Members pursuant to paragraphs 2.2 and 3.2 of the Settlement Agreement, which are incorporated herein by reference. Furthermore, all other remaining distribution issues related to the Net Sub-Class 1 Payments shall be governed by paragraphs 2.2 and 3.2 of the Settlement Agreement. *See* Plan of Allocation and Distribution, ¶20.

60. The calculation and distribution of the Net Sub-Class 2 Payments shall be determined and distributed pursuant to paragraphs 2.3, 3.4 and 3.5 of the Settlement Agreement, which are incorporated herein by reference. *See* Plan of Allocation and Distribution, ¶21.

On or before the Distribution Date for the Net Sub-Class 2 Payment Continental shall:

- i. Proportionality reduce the Sub-Class 2 Payments by the Attorney's Fees and Expenses awarded by the Court and;
- ii. Distribute to Sub-Class 2 Members through Continental's normal payment system the remaining balance of the Additional Consideration, to the extent each Sub-Class 2 Member is set up in "pay status" in Continental's payment system. Said payment shall be characterized as "Net Settlement Payment" and not payment of oil and gas royalties on the Distribution Check. No allocation of principal and interest shall be made by Continental as part of the payment process. Calculation of gross production taxes, if any, shall be made by Class Counsel and withheld by Continental from the Net Sub-Class 2 Payments and transferred to Class Counsels' Client Trust Account and paid directly by Class Counsel to the Oklahoma Tax Commission, as necessary. Class Counsel shall provide notice to the Oklahoma Tax Commission and obtain an order of the Court related to taxes owed, if any. Each Sub-Class 2 Member releases, and the Class and indemnifies, the Released Parties as to any claims related to any calculation, payment or non-payment of gross production taxes related to any Sub-Class 2 Payment for the Sub-Class 2 Claims. Continental shall make the Net Sub-Class 2 Payments on or before the Distribution Date for Net Sub-Class 2 Payments. When making the distribution of the allocated share of the Net Sub-Class 2 Payment to a particular Class Member, if that individual Class Member had previously been overpaid royalties by Continental such that the Class Member's royalty account has a negative balance and/or is in suspense pending recoupment of the overpayments at the time of the distribution, Continental shall be entitled to offset the Net Sub-Class 2 Payment to that individual Class Member to the extent necessary to offset the negative balance of that Class Member's royalty account;

- iii. Within 30 days after the Distribution Date for the Net Sub-Class 2 Payments, Continental shall provide Class Counsel and the Court a report reflecting the amount of the Net Sub-Class 2 Payments sent to each Sub-Class 2 Member; and
- iv. 180 days after Continental issues the Net Sub-Class 2 Payments, Continental shall provide a report to Class Counsel reflecting the unpaid balance representing the Residual Net Sub-Class 2 Payments as of the date of the report. During this 180-day period following the initial distribution of the Net Sub-Class 2 Payments, if the status of a Sub-Class 2 Member who was not in “pay status” at the time of the initial distribution is changed to a “pay status”, Continental may issue that owner its Net Sub-Class 2 Payment; if Continental does not make such supplemental distribution, the change of status shall be noted on the report provided to Class Counsel. Upon approval of the Residual Sub-Class 2 Payments by the Court. *See* Settlement Agreement, ¶3.5.

61. The allocation of the Net Sub-Class 1 Payments and Net Sub-Class 2 Payments shall be under the direct supervision of the Settlement Administrator and shall be accomplished as described herein, and the distribution of the Net Sub-Class 1 Payments and Net Sub-Class 2 Payments shall occur on or before the dates provided for in the Settlement Agreement. *See* Plan of Allocation and Distribution, ¶22.

62. It is important to note that this is not a claims made settlement, nor is it a settlement where a Class Member must take further action to participate. Further, the Settlement Payments are not reduced by the value of Claims attributable to Class Members who opted-out of the Settlement Class. Although such settlements are common and entirely appropriate, here, if a Class Member is entitled to payment and has not opted out of the Settlement, payment for each eligible Class Member’s allocation of the Net Settlement Fund will be distributed by Continental to each Class Member through Continental’s normal payment system.

63. If for any reason Continental does not make distribution of the Settlement Payment (*e.g.*, returned or stale-dated distribution checks, accounts not in “pay status”, etc.), Continental shall transfer the residual of the Payments to a Court-approved account, subject to further order of

the Court as to: (1) the scope of reasonable efforts to be undertaken by Class Counsel or the Settlement Administrator to locate and distribute any of the balance of the Residual Sub-Class 1 or 2 Payments to Class Members; and (2) as to any balance of the Residual Sub-Class 1 and 2 Payments remaining after completion of those efforts, the distribution or use of the remaining balance of the Residual Payments pursuant to Oklahoma law. *See* Settlement Agreement, ¶3.2 & 3.5.

64. In sum, Class Counsel believes the proposed Plan of Allocation is fair, reasonable, adequate, and in the best interests of the Class. In addition, oil and gas accounting expert, and Settlement Administrator, Barbara Ley, opines in her Affidavit: “[t]his straightforward and logical Plan of Allocation and Distribution utilizes a reasonable methodology frequently utilized for settlement allocations in royalty class actions and that has been approved by both state and federal courts as fair, adequate, and reasonable, and in the best interest of the Class.” See Affidavit of Barbara A. Ley filed simultaneously herewith.

The Settlement is Fair, Adequate and Reasonable

65. In *Velma-Alma v. Texaco*, 2007 OK CIV App 42, 162 P.3d 238, (which happened to be a settlement of a similar royalty underpayment class action), the Court outlined a four-part test to determine if a settlement was fair, adequate and reasonable:

Courts examine the fairness adequacy, and reasonableness of a class settlement in light of numerous factors. In Integra, the Tenth Circuit noted four factors the trial Court should consider: (1) whether the proposed settlement was fairly and honestly negotiated, (2) whether serious questions of law and fact exist, placing the ultimate outcome of litigation in doubt, (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation, and (4) the judgment of the parties that the settlement is fair and reasonable. [Emphasis added.]

Id. at n.10 (citing *In re Integra Reality Resources, Inc.*, 354 F. 3d 1246 (10th Cir. 2004); *see also Louisiana Mun. Police Employees' Ret. Sys. V. McClendon*, 2013 OK CIV APP 64, ¶ 7, 307 P. 3d 393, 397.)

66. All four factors undoubtedly confirm the Settlement in this case is fair, adequate, and reasonable and should be approved.

67. First, we can attest that we, as Class Counsel, and Class Representatives and Continental, engaged in extensive, arms-length and hard-fought negotiations regarding the Settlement Agreement. As discussed above, the Parties participated in a full day, in-person, very heated mediation session (which failed) on July 19, 2013. After two (2) more years of hard-fought litigation, the Parties participated in a second full day, in-person mediation session on December 7, 2015, which also failed. Thereafter, the Parties continued settlement discussions in over fifty (50) in person and telephonic settlement conferences, and actively negotiated the terms of the Settlement Agreement for the next two and one-fourth (2 ¼) years, spending hundreds of hours to finally reach an agreement. **The Settlement Agreement was fairly and honestly negotiated.**

68. Second, Class Counsel acknowledge the difficult and complex questions of law and fact that exist in this case. Continental has consistently denied liability in this case and has vigorously opposed class certification. Indeed, Continental appealed the District Court's order granting Plaintiffs' Motion for Class Certification of a B1 & B2 Class to the Oklahoma Appellate Courts, which reversed and remanded the District Court's initial decision to certify a B1 & B2 Class. While Plaintiff and Class Counsel are confident the facts and law support class certification in this case as a B3 Class, they face a considerable risk of not obtaining class certification on remand, or it being reversed upon appeal. **Thus, the ultimate outcome of this Litigation remains "in doubt,"** satisfying the second test.

69. Third, Plaintiffs and Class Counsel have achieved an outstanding immediate

recovery for the Settlement Class. Specifically, the Settlement Agreement provides for:

	“Claim Period 1”	“Claim Period 2”	“Future Period”	Total Value*
Value of the Settlement to the Class	\$49,800,000.00 Sub-Class 1 Payment	\$7,500,000.00 estimated	\$50,000,000.00 estimated	\$107,300,000.00*

*Sub-Class 1 Payment + Estimated Values of Sub-Class 2 Payment and the Future Production Period benefits.

The Settlement also provides that Continental will incur the costs of the initial distributions to the Class Members (*i.e.*, part of the “Administrative Expenses”) and substantial costs associated with the implementation of the Future Production Period benefits (estimated by Class Counsel to be in excess of \$2 million), which is a substantial benefit to the Settlement Class inasmuch as most, if not all, of the Administrative Expenses that Continental has agreed to incur would otherwise be paid from the Gross Settlement Fund.

70. **This is an outstanding immediate recovery for the Settlement Class, particularly when weighed against the risk of protracted and expensive litigation that could ultimately result in no recovery at all.**

71. Fourth, **the Parties support the Settlement and believe it is fair and reasonable and should be approved.** See Settlement Agreement ¶11.4; see also this Declaration. at ¶46 and the Affidavits of Class Representatives, Mark Strack and Daniela Renner filed simultaneously herewith.

72. All four factors support approval of the Settlement Agreement.

Attorneys’ Fees and Expenses

73. If the Court approves the Settlement, the Court must then consider Class Counsel’s Motion for Attorneys’ Fees, Litigation Costs and a Class Representatives Award from the

Common Fund (“Motion for Attorneys’ Fees and Expenses”).

ATTORNEYS’ FEES:

74. Class Counsel is seeking an award of Attorneys’ Fees of the Gross Settlement Payment for Claim Period 1 and Gross Settlement Payment for Claim Period 2 (i.e. **40% of \$49.8 million for Claim Period 1 and 40% of a presently undetermined Claim Period 2 payment, estimated to be \$7.5 million**). Class Counsel are **not** seeking an additional 40% fee on the **benefits obtained for the Future Production Period**. If approved, the attorneys fee requested for Claim Period 1 would be \$19.92 million, and the attorney’s fee for Claim Period 2 would be \$3 million if the \$7.5 million Time Period 2 estimate is spot on accurate (the “Fee Request”).

75. However, when viewed against the Total Settlement Value in excess of \$107.3 million (which includes \$49.8 million in cash for Time Period 1, plus an estimated \$7.5 million for Time Period 2, plus an amount in excess of \$50 million future benefits to Class Members during the first ten (10) years of the Future Production Period) **the Fee Request represents less than twenty two percent (22%) of that Total Settlement Value**. Given the substantial recovery Class Counsel achieved on behalf of the Class—consisting both of a cash recovery, and binding future benefits conferred on Class Members owning interests in existing and future wells—and the efforts Class Counsel dedicated to this action, this Fee Request is fair and reasonable in our opinion.

76. We have received only three (3) purported objections to the Motion for Attorneys’ Fees and Expenses:

1. Bruce L. McLinn, Trustee of the McLinn Family Revocable Trust dtd 7/31/2008 - As noted on McLinn’s letterhead, he does business as “McLinn Land Services, LLC”. McLinn Land Services, LLC’s website indicates “*McLinn Land Services, LLC was founded as a full service land company in 1997. The Company has consistently maintained a staff of highly experienced sub-contracting landmen since inception, allowing us to provide exceptional service that is customized to the*

client's needs." <http://mclinnland.com/>. In other words, Mr. McLinn's livelihood is derived directly from oil and gas operators like, and even perhaps including, Continental. As reflected in the Report of Class Member Filings (Opt-Outs & Objections) filed simultaneously herewith, Mr. McLinn's "objection" does not fully comply with the requirements set forth in the Notice. The Court should therefore consider Mr. McLinn's filing as "comment" rather than an "objection";

2. Daniel McClure – Mr. McClure is a class action defense attorney; *see* pending Motion Confirming Daniel M. McClure to be Excluded from the Settlement Class and Motion to Strike "Objection to Motion for Attorneys' Fees and Class Representatives' Award" by Non-Class Member, Daniel M. McClure; and
3. Kelly McClure Callant – Ms. Callant is the sister of Daniel McClure. As reflected in the Report of Class Member Filings (Opt-Outs & Objections) filed simultaneously herewith, Ms. Callant's "objection" does not fully comply with the requirements set forth in the Notice. The Court should therefore consider Ms. Callant's filing as "comment" rather than an "objection".

Thus, less than 0.009%, or 1 out of every 11,297 possible Class Members, (3 "objections" / 33,890 Notices mailed out) "objected" to the requested Attorneys' Fees and Expenses. Put another way, **99.9911% the possible Class Members raised NO objection to the requested Attorneys' Fees and Expenses.** *See* Report of Class Member Filings (Opt-Outs & Objections).

77. When this Litigation began, Class Representatives agreed to an attorneys' fee of 40% of all consideration recovered:

If we are successful, we will receive as a fee forty percent (40%) of all consideration which is received by you as a result of our efforts in prosecuting this claim, *i.e.*, forty percent (40%) of the gross recovery. As for the remainder of the class members, we will apply to the Court for the same forty percent (40%) of gross recovery fee. In the event such consideration includes non-cash consideration, such as the agreement to do or not do some future act, the present cash value of such non-cash consideration shall be determined and utilized in computing the full attorney's fee payable pursuant to this agreement.

See Fee Agreements attached to Class Counsel's Motion for Attorneys' Fees and Expenses, Exhibit "A."

78. Under these fee agreements, **Class Counsel accepted the responsibilities related to prosecuting this Litigation on a wholly contingent basis at the risk of receiving no payment**

at all and potentially losing any expenses invested in the case. Very few law firms have the expertise and financial wherewithal to take on such risk. And those firms that do agree to take on such cases almost always do so on a 40% contingent fee basis—the same amount Class Representative agreed to here.

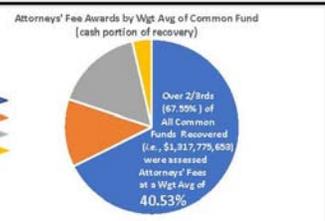
79. When the case was filed, Class Counsel had no way of knowing the amount of underpaid or unpaid royalty, or the amount Continental was capable of paying to compensate the Settlement Class for any such underpayment. Additionally, when the 40% contingent fee was agreed to, Class Counsel could not have known what jurisdiction this case would have been removed or transferred to, if any, or what future changes to Oklahoma oil and gas law would affect the outcome of the case (which in fact it did).

80. The Fee Request is equal to the market rate for the quality representation provided in a case like this. Indeed, it would be entirely appropriate for Class Counsel to request up to 40% of the overall Total Settlement Value, which not only includes the Sub-Class 1 Payment, plus the estimated Sub-Class 2 Payment, but also the conservatively estimated \$50 million benefit during the first 10 years of the Future Production Period. This is evidenced by the fact that Class Representative negotiated a 40% fee with Class Counsel at the outset of this Litigation and that fees are routinely allowed based not only upon a cash recovery, but also upon the value of future benefits (as quoted above, the Fee Agreement clearly indicated that a 40% fee would be included on future benefits). However, here, Class Counsel is requesting a fee that represents less than 22% of the Total Settlement Value (which is 40% of the \$49.8 million settlement cash amount for Time Period 1 and 40% of the cash amount paid for Time Period 2). In Class Counsel's experience the typical percentage in similar class actions is the same or higher than that requested here.

81. Both of us (Burns & Stowers) have considerable education, experience, skill and qualifications rendering us competent to testify about the fair, reasonable and market rates for attorneys prosecuting this type of complex commercial litigation and have been accepted by numerous courts as expert witnesses qualified to testify regarding the same. We believe the contingent fee arrangement negotiated by Class Representatives is within the range of fair and reasonable rates for such cases.

82. As the Executive Director of the Coalition of Oklahoma Surface and Mineral Owners (COSMO), Stowers researches and tracks settlements of oil and gas class actions, and awards of attorneys' fees, litigation expenses, class representative contribution awards, and similar data. Attached hereto as Exhibit "A" is COSMO's full three (3) page report titled "Summary of 20+ Years of Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)" ("COSMO's Class Fee Action Tracking Report"). COSMO's Class Action Tracking Report reflects the following summary of Attorneys' Fee Awards ("Common Fund" = "Cash" Portion of Settlement):

Range of Attorney Fee Awards in Oklahoma O&G Class Actions as a Percentage of the "Common Fund" (Cash Only)	# of Cases	"Common Fund" (Cash Portion only)	Wgt Avg % of Total Reported Cash Common Funds	Total Recovery for the Class	Wgt Avg Atty Fee
Attorneys' Fee ≥ 40%	30	\$1,108,237,553	67.55%	\$1,317,775,653	40.53%
35% ≤ Attorneys' Fee < 40%	6	\$205,511,379	12.53%	\$221,942,770	37.28%
30% ≤ Attorneys' Fee < 35%	14	\$267,974,678	16.33%	\$281,984,441	31.96%
Attorneys' Fee < 30%	6	\$58,847,500	3.59%	\$59,172,500	24.45%
Total Completed O&G Class Actions	56	\$1,640,571,110	100.00%	\$1,880,875,364	38.15%
Additional O&G Class Actions Pending Final Approval	3	\$248,800,000		\$374,265,000	
Total of All Reported O&G Class Actions	59	\$1,889,371,110		\$2,255,140,364	



- **56 completed Class Action Settlements** are reported, with **Common Funds totaling over \$1.6 Billion (\$1,640,571,110)**, plus another 3 pending settlements bringing the total Common Funds to almost \$1.9 Billion (\$1,889,371,110);
- **30 reported awards of Attorneys' Fees are greater than or equal to 40% of the Common Fund (40.53% wgt avg)**; and
- **67.55% of Common Fund Dollars were assessed Attorneys' Fees greater than or equal to 40% of the Common Fund (\$1,317,775,653 / \$1,640,571,110)**.

At the hearing, Class Counsel will introduce two notebooks containing the supporting court orders for COSMO's Class Action Tracking Report, ("Supporting Fee Orders"), Exhibits 1 through 56:

Case Identification					The "Common Fund" and Class Recovery			Percentage of "Common Fund" (Cash Only) Awarded						
Ex #	Case Name	Judge	Case No. & Court	Year Resolved	"Common Fund" (Cash Portion only)	Other Benefits to the Class	Total Recovery for the Class	Attorneys' Fee	Lode Star Multiplier (if known)	Litigation Costs	Admin Costs from Fund	Class Rep. Fee	Total Award of Fees & Costs	
Pending	<i>Cecil v BP America</i>	Ronald White	CIV-16-410-W USED OK	2018	\$147,000,000	\$65,000,000	\$212,000,000	TBD	TBD	TBD	TBD	TBD	TBD	
Pending	<i>Strack v Continental</i>	Dennis Hladik	CJ-2010-75 Blaine Co	2018	\$49,800,000	\$57,500,000	\$107,300,000	TBD	TBD	TBD	TBD	TBD	TBD	
32	<i>Chieftain v EnerVest</i>	Timothy DeGiusti	CIV-11-177-D USWD OK	2015	\$52,000,000	\$2,965,000	\$54,965,000	Pending on Remand	Pending on Remand	Pending on Remand	Pending on Remand	Pending on Remand	Pending on Remand	
54	<i>Tatum v. Devon</i>	Carl Gibson	CJ-2010-77 Nowata Co	2013	\$3,800,000	N/A	\$3,800,000	45.00%	Unreported	0.80%	Undetermined	0.13%	45.93%	
53	<i>Gregory v El Paso</i>	Richard B. Darby	CJ-2000-92 Washita Co	2001	\$629,000	N/A	\$629,000	45.00%	Unreported	4.77%	Undetermined	5.00%	54.80%	
28	<i>Bank of America v El Paso</i>	Christopher Kelly	CJ-2004-45 Washita Co	2017	\$115,000,000	\$12,662,100	\$127,662,100	44.39%	3.12	1.26%	0.58%	0.26%	46.50%	
8	<i>Kouns v. ConocoPhillips</i>	Ray Dean Linder	CJ-1998-61 Dewey Co	2004	\$4,300,000	\$1,086,000	\$5,386,000	42.56%	Unreported	3.02%	Undetermined	0.47%	46.04%	
47	<i>Naylor Farms v. QEP</i>	David Russell	CIV-08-668-R USWD OK	2012	\$1,845,000	N/A	\$1,845,000	41.73%	Unreported	10.84%	1.36%	2.71%	56.64%	
36	<i>Chieftain v. QEP</i>	David Russell	CIV-09-07-R	2013	\$115,000,000	\$40,000,000	\$155,000,000	40.43%	Unreported	0.92%	Undetermined	0.67%	42.03%	
31	<i>Fitzgerald v Chesapeake</i>	Jon Parsley	CJ-2010-38 Beaver Co	2015	\$119,000,000	Admin Exp to be paid by CHK	\$119,000,000	40.00%	4.76	0.26%	0.00%	0.30%	40.56%	
11	<i>Mayo v. Kaiser-Francis</i>	Richard VanDyck	CJ-1993-348 Grady Co	2004	\$5,000,000	N/A	\$5,000,000	40.00%	Unreported	0.60%	Undetermined	0.00%	40.60%	
22	<i>Lobo v. BP (WI)</i>	Gerald Riffe	CJ-19-97-72 Beaver Co	2005	\$150,000,000	N/A	\$150,000,000	40.00%	8.70	0.41%	Undetermined	0.50%	40.91%	
24	<i>Mitchusson v. Exco</i>	Wyatt Hill	CJ-2010-32 Caddo Co	2012	\$23,500,000	N/A	\$23,500,000	40.00%	6.30	0.41%	Undetermined	0.64%	41.04%	
5	<i>Robertson/Taylor v. Sanguine</i>	Richard VanDyck	CJ-2002-150 Grady Co	2003	\$13,250,606	N/A	\$13,250,606	40.00%	10.00	0.08%	Undetermined	1.00%	41.08%	
2	<i>Continental v. Conoco (WI)</i>	Richard Perry	CJ-2000-356 Garfield Co	2005	\$23,000,000	N/A	\$23,000,000	40.00%	3.65	0.74%	Undetermined	0.50%	41.24%	
1	<i>Simmons v. Anadarko</i>	Wyatt Hill	CJ-2004-57 Caddo Co	2008	\$155,000,000	N/A	\$155,000,000	40.00%	4.20	0.53%	0.65%	0.50%	41.67%	
34	<i>Drummond v Range</i>	Richard Van Dyck	CJ-2010-510 Grady Co	2013	\$87,000,000	N/A	\$87,000,000	40.00%	Unreported	0.74%	Undetermined	1.00%	41.74%	
23	<i>Sacket v. Great Plains</i>	Ray Dean Linder	CJ-2002-70 Woods Co	2009	\$25,000,000	N/A	\$25,000,000	40.00%	3.20	1.30%	Undetermined	0.70%	42.00%	
35	<i>Cecil v Ward</i>	Wyatt Hill	CJ-2010-462 Grady Co	2014	\$10,000,000	N/A	\$10,000,000	40.00%	Unreported	1.30%	Undetermined	1.00%	42.30%	
37	<i>Cornett v Samson</i>	Ray Dean Linder	CJ-2009-81 Dewey Co	2013	\$15,200,000	1/2 of Admin paid by Samson	\$15,200,000	40.00%	Unreported	1.78%	1/2 of Admin Costs	1.00%	42.78%	
27	<i>Reindon v XTO</i>	Kimberly West	CIV-16-87-KW USED OK	2018	\$20,000,000	\$20,750,000	\$40,750,000	40.00%	2.55	1.12%	1.75%	0.15%	43.02%	
38	<i>DSR Investments v Devon</i>	Ray Dean Linder	CJ-2011-12 Dewey Co	2013	\$11,000,000	\$40,000	\$11,040,000	40.00%	Unreported	2.12%	0.00%	1.00%	43.12%	
21	<i>Laverty v. Newfield</i>	Greg Zigler	CJ-2002-101 Beaver Co	2007	\$17,250,000	\$250,000	\$17,500,000	40.00%	4.22	2.92%	Undetermined	0.40%	43.32%	
25	<i>Brown v. Citation</i>	Richard Van Dyck	CJ-2004-217 Caddo Co	2009	\$5,250,000	N/A	\$5,250,000	40.00%	1.31	2.44%	Undetermined	1.00%	43.44%	
9	<i>McIntosh v. Questar</i>	N. Vinson Barefoot	CJ-2002-22 Major Co	2002	\$1,500,000	N/A	\$1,500,000	40.00%	Unreported	3.20%	Undetermined	0.33%	43.54%	
6	<i>Rudman v Texaco</i>	William C. Hetherington	CJ-1997-1-E Stephens Co	2001	\$25,000,000	N/A	\$25,000,000	40.00%	Unreported	3.27%	Undetermined	1.00%	44.27%	
26	<i>Chieftain v XTO</i>	Kimberly West	CIV-11-29-KW USED OK	2018	\$80,000,000	\$134,750,000	\$214,750,000	40.00%	2.58	2.07%	1.99%	0.28%	44.34%	
See Court Clerk	<i>Holcomb v Chesapeake</i>	Doug Haught	CJ-2011-6 Roger Mills Co	2013	\$2,000,000	N/A	\$2,000,000	40.00%	Unreported	3.90%	Undetermined	0.50%	44.40%	
49	<i>Krug v. Helmerich & Payne</i>	Jefferson Sellers	CJ-98-06012 Tulsa Co	2014	\$15,760,949	N/A	\$15,760,949	40.00%	Unreported	3.92%	Undetermined	1.00%	44.92%	
41	<i>Velma v. ChevronTexaco</i>	Allan McCall	CJ-2005-496 Stephens Co	2007	\$27,000,000	N/A	\$27,000,000	40.00%	2.49	4.95%	Undetermined	1.00%	45.95%	
40	<i>Taylor v. Texaco</i>	Gerald Riffe	CJ-2002-104 Texas Co	2011	12,000,000	Admin Exp to be paid by Texaco	12,000,000	40.00%	1.76	5.00%	0.00%	1.00%	46.00%	
30	<i>Chieftain v Laredo</i>	Timothy DeGiusti	CIV-12-1319-D USWD OK	2015	\$6,651,998	Undetermined	\$6,651,998	40.00%	Unreported	5.26%	0.00%	1.00%	46.26%	
29	<i>Mahaffey v Marathon</i>	Ken Graham	CJ-2004-581E Stephens Co	2016	\$18,300,000	Undetermined	\$18,300,000	40.00%	Unreported	6.70%	1.64%	0.22%	48.56%	
39	<i>Webber v. Mobil</i>	F. Pat Versteeg	CJ-2001-53 Custer Co	2012	\$30,000,000	\$750,000	\$30,750,000	39.12%	Unreported	2.21%	0.00%	0.50%	41.83%	
44	<i>Hill v. Kaiser-Francis</i>	David Russell	CIV-09-07-R USWD OK	2013	\$37,000,000	\$3,091,391	\$40,091,391	37.92%	Unreported	2.69%	0.35%	0.54%	41.50%	
3	<i>Brunley v. ConocoPhillips</i>	Greg Zigler	CJ-2001-5 Texas Co	2005	\$29,261,379	\$7,590,000	\$36,851,379	37.91%	3.85	3.12%	Undetermined	1.13%	42.16%	
20	<i>Bank of Amer. v Burlington</i>	Ellis Cabaniss	CJ-1997-68 Washita Co	2006	\$66,000,000	N/A	\$66,000,000	37.00%	Unreported	2.56%	0.63%	0.34%	40.53%	
42	<i>Fankouser v. XTO</i>	Tim Leonard	CIV-07-798-L USWD OK	2012	\$37,000,000	\$5,000,000	\$42,000,000	35.53%	Unreported	0.81%	Undetermined	0.27%	36.61%	
7	<i>Fazekas v. Arco</i>	Bill Welch	C-1998-65 Latimer Co	2002	\$6,250,000	N/A	\$6,250,000	35.00%	Unreported	10.00%	Included in Litigation Costs	6.40%	51.40%	
12	<i>Velma-Alma v. Chesapeake</i>	Joe H. Enos	CJ-2002-331-E Stephens Co	2004	\$10,500,000	\$6,600,000	\$17,100,000	34.95%	3.25	3.05%	Undetermined	2.00%	40.00%	
51	<i>Booth v. Cross Timbers</i>	Ray Dean Linder	CJ-1998-16 Dewey Co	2003	\$2,500,000	N/A	\$2,500,000	33.42%	Unreported	1.63%	Undetermined	0.36%	35.41%	

Case Identification					The "Common Fund" and Class Recovery			Percentage of "Common Fund" (Cash Only) Awarded					
Ex #	Case Name	Judge	Case No. & Court	Year Resolved	"Common Fund" (Cash Portion only)	Other Benefits to the Class	Total Recovery for the Class	Attorneys' Fee	Lode Star Multiplier (if known)	Litigation Costs	Admin Costs from Fund	Class Rep. Fee	Total Award of Fees & Costs
45	Hitch v. Cimarex	Lee West	CIV-11-13-W USWD OK	2013	\$16,400,000	N/A	\$16,400,000	33.33%	Unreported	0.40%	Undetermined	1.00%	34.74%
56	Kouns v. Louis Dreyfus	Robert Collier	CJ-98-20 Dewey Co	2003	\$2,778,125	N/A	\$2,778,125	33.33%	Unreported	1.30%	Undetermined	0.43%	35.06%
43	Hill v. Marathon	David Russell	CIV-08-37-R USWD OK	2012	\$40,000,000	\$7,409,763	\$47,409,763	33.33%	Unreported	1.02%	Undetermined	0.25%	34.60%
14	Barnaby v. Marathon	Bill Welch	C-1996-40 Latimer Co	2003	\$3,645,241	N/A	\$3,645,241	33.33%	Unreported	1.85%	Undetermined	0.33%	35.51%
55	Lawrence v. Cimarex	Richard Van Dyck	CJ-2004-391 Caddo Co	2006	\$6,475,000	N/A	\$6,475,000	33.33%	Unreported	2.11%	Undetermined	0.39%	35.83%
19	Duke v. Apache	Joe Jackson	CJ-1994-32 Dewey Co	2002	\$1,967,500	N/A	\$1,967,500	33.33%	Unreported	3.43%	0.26%	0.00%	37.02%
13	Shockey v. Chevron	Ellis Cabaniss	CJ-2001-7 Washita Co	2005	\$60,000,000	N/A	\$60,000,000	33.33%	4.66	3.19%	0.83%	0.42%	37.77%
18	Kouns v. Kaiser-Francis	Ray Dean Linder	CJ-1998-45 Dewey Co	2003	\$3,100,000	N/A	\$3,100,000	33.33%	Unreported	1.61%	8.06%	0.39%	43.39%
10	Black Hawk v. Exxon (WI&RO)	Deborah C. Shallcross	CJ-93-02226 Tulsa Co	1999	\$9,000,000	N/A	\$9,000,000	31.80%	Unreported	1.82%	3.30%	3.72%	40.65%
17	Gregghol v. Barrett	Edward Cunningham	CJ-1996-166-1 Canadian Co	1996	\$180,000	N/A	\$180,000	30.00%	Unreported	Undetermined	Undetermined	0.00%	30.00%
15	Duke v. Samson	Robert Collier	CJ-1994-31 Dewey Co	1996	\$1,454,375	N/A	\$1,454,375	30.00%	Unreported	0.21%	Undetermined	0.00%	30.21%
4	Bridenstine v. Kaiser-Fr.	Ronald Kincaannon	CJ-2000-1 Texas Co	2004	\$109,974,437	Undetermined	\$109,974,437	30.00%	5.25	2.63%	0.45%	0.81%	33.89%
16	Cactus Petrol. V. Chesapeake (WI)	Greg Zigler	CJ-2004-4 Harper Co	2005	\$6,500,000	N/A	\$6,500,000	26.36%	1.70	3.29%	Undetermined	0.35%	30.00%
33	Adkisson v Koch	John Scaggs	CJ-1999-192 Seminole Co	2009	\$30,000,000	N/A	\$30,000,000	25.07%	5.15	0.35%	Undetermined	0.21%	25.63%
47	In re Lease Oil Antitrust Lit	Judge Jack	186 FRD 403 USSD TX	1999	\$11,250,000	N/A	\$11,250,000	25.00%	Unreported	3.30%	Undetermined	0.12%	28.42%
48	Stamp Bro v Continental	Joe Heaton	CIV-14-182-HE	2017	\$6,650,000	Undetermined	\$6,650,000	21.35%	Unreported	1.21%	0.00%	0.75%	23.31%
50	Barnaby v. Ocean Energy	N.Vinson Barefoot	CJ-1996-73 Dewey Co	2001	\$2,875,000	N/A	\$2,875,000	20.87%	Unreported	2.61%	Undetermined	0.00%	23.48%
52	Dunstan v. Sonat	Robert Collier	CJ-1996-12 Dewey Co	1998	\$1,572,500	\$325,000	\$1,897,500	20.67%	Unreported	Unreported	Undetermined	0.00%	20.67%
Total of All Reported O&G Class Actions				1996-2018	\$1,889,371,110	\$365,769,254	\$2,255,140,364						

Royalty Owner vs. Working Interest Owner Class Actions	# of Cases	"Common Fund" (Cash Portion only)	Other Benefits to the Class	Total Recovery for the Class
Royalty Owner Class Actions	55.15	\$1,702,221,110	\$365,769,254	\$2,067,990,364
Working Interest Owner Class Actions	3.85	\$187,150,000	\$0	\$187,150,000
Total of All Reported O&G Class Actions	59	\$1,889,371,110	\$365,769,254	\$2,255,140,364

83. The award of attorneys' fees in a class action in Oklahoma is governed by

12 O.S. § 2023(G) which provides:¹

G. ATTORNEY FEES AND NONTAXABLE COSTS.

1. In a certified class action, **the court may award reasonable attorney fees and nontaxable costs that are authorized by law or by the parties' agreement.**

2. A claim for an award shall be made by motion, subject to the provisions of this subsection, at a time set by the court. Notice of the motion shall be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.

3. A class member, or a party from whom payment is sought, may object to the motion.

¹ As the Executive Director of the Coalition of Oklahoma Surface and Minerals Owners (COSMO), **Stowers was the person who drafted and negotiated this provision with President Pro Temp of the Senate, Glenn Coffee** when it was originally added to 12 O.S. §2023 as part of the "Tort Reform Bill" in 2009 (HB1603) (*Re-enacted by HB1013X during the 1st Extr. Sess. In 2013 after the Oklahoma Supreme Court held HB1603 to be unconstitutional "log-rolling" violating the Single Subject Rule*). Stowers will address the intent of §2023(G)(4) below.

4. In considering a motion for attorney fees filed after November 1, 2009:
- a. the court shall conduct an evidentiary hearing to determine a fair and reasonable fee for class counsel,
 - b. the court shall act in a fiduciary capacity on behalf of the class in making such determination,**
 - c. the court may appoint an attorney to represent the class upon the request by any members of the class in a hearing on the issue of the amount of attorney fees or the court may refer the matter to a referee pursuant to Section 613 et seq. of this title,
 - d. if the court appoints an attorney to represent the class for the fee hearing pursuant to subparagraph c of this paragraph or refers the matter to a referee, the attorney or referee shall be independent of the attorney or attorneys seeking attorney fees in the class action, and said independent attorney or referee shall be awarded reasonable fees by the court on an hourly basis out of the proceeds awarded to the class,
 - e. in arriving at a fair and reasonable fee for class counsel, the court shall consider the following factors:**
 - (1) time and labor required,
 - (2) the novelty and difficulty of the questions presented by the litigation,
 - (3) the skill required to perform the legal service properly,
 - (4) the preclusion of other employment by the attorney due to acceptance of the case,
 - (5) the customary fee,
 - (6) whether the fee is fixed or contingent,
 - (7) time limitations imposed by the client or the circumstances,
 - (8) the amount in controversy and the results obtained,
 - (9) the experience, reputation and ability of the attorney,
 - (10) whether or not the case is an undesirable case,
 - (11) the nature and length of the professional relationship with the client,
 - (12) awards in similar cases,
 - (13) the risk of recovery in the litigation. [Emphasis added.]

12 O.S. § 2023(G)

This Court must evaluate these enumerated thirteen (13) factors to determine whether the requested fee is fair and reasonable. Accordingly, Class Counsel will address each factor herein.

Factor 1: Time And Labor Required

84. Class Counsel has expended considerable time and talent in advancing the claims of the Settlement Class in this matter and, as a result of substantial time and labor, Class Counsel obtained a substantial and meaningful recovery for the Settlement Class, both in the form of money and binding future benefits.

85. Class Counsel have provided over two hundred (200) pages of detailed contemporaneous time records through May 10, 2018 to their expert witnesses, William Hetherington and Robert Gum for review. Further, Class Counsel has simultaneously herewith provided the Court the same detailed records for *in camera* review. Disclosure of said records in open court could reveal Attorney Work Product and Class Counsel’s mental impressions and litigation strategies, placing Class Counsel and other clients at a disadvantage in other litigation, and consequently will not be filed of record unless so ordered by the Court (and in that event, Class Counsel would ask that the detailed time records be filed under seal). Attached hereto as Exhibit “C” is a “Summary of Class Counsel’s Detailed Time Records” (“Summary of Time Records”), which is also reproduced herein:

Strack v Continental			
Summary of Class Counsel's Detailed Time Records			
Firm	Attorney or Paralegal	Title	Total Hours Expended
Burns & Stowers	Douglas E. Burns	Senior Attorney	2,751.85
Burns & Stowers	Terry L. Stowers	Senior Attorney	4,029.28
Park, Nelson, Caywood, Jones	Kerry Caywood	Attorney	212.50
Park, Nelson, Caywood, Jones	Angela Caywood Jones	Attorney	19.30
F. Douglas Shirley	F. Douglas Shirley	Attorney	
Burns & Stowers	Pamela Moulton	Paralegal	652.50
Burns & Stowers	Tammie Wheeler	Paralegal	296.40
*Totals			7,961.83

As reflected in the Summary of Time Records, Class Counsel have expended over 7,950 hours through May 10, 2018, which have benefitted the Settlement Class and resulted in the Settlement of this Litigation.

86. In addition to Class Counsel’s work as previously described in the History of the Litigation, Class Counsel has worked hard behind the scenes on behalf of the Class. As the Court

well knows, Class Counsel actively advocates for the rights of royalty owners in other forums throughout the State of Oklahoma on issues that affect royalty owners in general, and specifically affected this case. For example, Class Counsel annually opposes oil company attempts (including Continental) to weaken the Production Revenue Standards Act. Class Counsel often file *Amicus Curiae* Briefs in cases impacting class certification or deduction issues.

87. In addition to the hours already expended and summarized above, Class Counsel have and will continue to dedicate substantial time and effort on behalf of the Settlement Class to get the Settlement approved and implemented.

88. The time and labor spent in prosecuting this Litigation was substantial and supports the requested fee.

Factor 2: The Novelty and Difficulty of the Questions Presented by the Litigation

89. When Class Counsel agreed to take on this Litigation, there were many disagreements between Class Representatives and Continental regarding Oklahoma oil and gas law that affected the Settlement Class' claims, as set out in detail in the Amended Petition, a copy of which is attached to the Settlement Agreement as Exhibit "A." Disagreements abounded between the Parties regarding, among other things, Continental's duty to bear the full costs for marketing, gathering, compression, dehydration, processing, treatment, and other similar services to place the gas from the Class wells in a marketable condition, Continental's duty to pay royalty on gas used off the lease premises to run equipment in gathering systems and gas plants under the express terms of the Class Members' leases, whether Continental paid royalty on the best price available for the gas and oil, Continental's duty to pay royalty on skim oil produced from class wells but recovered at off site salt water disposal or reclamation facilities and whether such issues are appropriate for determination on a class-wide basis. These issues go to the heart of the

Settlement Class' claims, and the Parties still maintain differing views. Even if the Court ruled in favor of the Settlement Class on these legal issues, the Parties would have inevitably disputed the nature and amount of damages

90. A number of the novel and difficult questions presented by the Litigation was summarized in Plaintiffs' Amended Motion for Class Certification:

I. Issues Related to the Production Revenue Standards Act, 52 O.S. §570.1, et seq. ("PRSA"), and Other Recent Legislative Enactments, Evidencing Oklahoma's Public Policy and General Rules of Conduct for the Oil and Gas Industry.

A. Are CLR's duties, obligations and conduct *vis-à-vis* its royalty owners subject to, and governed by, the overarching public policy and general rules of conduct as embodied within the PRSA and other related legislative enactments, *e.g.*, the Conservation Act (52 O.S. §86.1, *et. seq.*); the Oil & Gas Owners' Lien Act of 2010 (52 O.S. §549.1, *et seq.*); and the Energy Litigation Reform Act (52 O.S. §901, *et seq.*)?

1. Does the PRSA, as recently supplemented by the Oil & Gas Owners' Lien Act and the Energy Litigation Reform Act, represent part of a comprehensive regulatory scheme enacted by and through the police powers of the State of Oklahoma, setting out the general rules of conduct for the oil and gas industry in respect of the payment of proceeds of production from oil and gas wells in Oklahoma?

2. Was the PRSA designed specifically to protect a broad societal interest in the correlative rights of the owners of that production and the proceeds and revenue therefrom?

3. Does the public policy in Oklahoma, as embodied in the PRSA provisions, apply to CLR and all its royalty owners in all CLR wells in Oklahoma, regardless of the date pooled by the Oklahoma Corporation Commission, the date the well was drilled by CLR or the date or terms of the underlying oil and gas leases?

4. Pursuant to Oklahoma's public policy and general rules of conduct, as the operator of CLR wells, under what legal standards is CLR's conduct *vis-à-vis* its royalty owners to be measured?

a. As operator of CLR wells, does CLR operate the well on behalf of all owners in the well, including its royalty owners?

b. As operator of CLR wells, when performing any duties owed to its royalty owners relating to: (1) the exploration for oil or gas; (2) the operations of the wells; (3) producing oil and gas from the wells; (4) marketing oil or gas from the wells; or (5) disbursing proceeds of production of oil or gas from the wells, is CLR required to

perform its duties with due regard to the interests of all affected parties?

c. As operator of CLR wells, does CLR have a duty to market oil and gas production from the wells at the best price and terms reasonably available?

d. As a result of CLR's relationship with its royalty owners and as operator of CLR wells, is CLR (1) held accountable to its royalty owners, (2) held to a high degree of good-faith in its dealings, and (3) not permitted to make use of the relationship to realize unauthorized benefits or profits for its own interests at the expense of its royalty owners?

e. As a result of CLR's relationship with its royalty owners and as operator of CLR wells, does CLR have a duty of candor, the obligation of good faith and the duty of fair dealing, in the performance of its express and implied obligations owed to its royalty owners?

B. Does the public policy in Oklahoma, as embodied in the PRSA, involve a regulatory scheme wherein CLR:

(i) is the holder of the royalty share of the revenue or proceeds of oil and gas production from CLR wells;

(ii) has no rights in or to the royalty share of the revenue or proceeds from the CLR wells;

(iii) is under a statutory duty to account for and pay the royalty share of the revenue or proceeds of oil and gas production from the CLR wells to its royalty owners; and

(iv) acquires no right, title or interest in the royalty share of the revenue or proceeds of oil and gas production from the CLR wells?

C. Does the public policy in Oklahoma, as embodied in the PRSA and other legislative enactments, give CLR's royalty owners a right to be accurately informed of the facts, and place a legal duty on CLR to accurately inform its royalty owners of the facts, on which the royalty payments are based, including an accurate accounting for all production and proceeds or revenue from the sale or other disposition of the production attributed to the CLR wells?

D. Does the public policy in Oklahoma, as embodied in the PRSA, require that CLR's royalty owners receive prompt payment for their royalty share of all proceeds and revenue from the sale of oil and gas production from CLR's wells?

1. Is CLR liable, as a matter of law (specifically, 52 O.S. § 570.10), to CLR's royalty owners for 12% interest (or 6% interest if title to the mineral interest was not marketable), compounded annually, together with all resulting costs or damages, where the royalty owner's proceeds were paid incorrectly as a result of an error or omission by CLR?

E. Would the term “production”, as defined by the PRSA (i.e., “the physical act of severance of oil and gas from a well by an owner and includes but is not limited to the sale or other disposition thereof” 52 O.S. §570.2(2)), include in part:

As to Oil

- (i) oil (including condensate) produced from a CLR operated wellbore which is separated and saved at the lease location;
- (ii) oil produced from a CLR operated wellbore which is commingled with produced saltwater from the CLR wellbore (i.e., “skim oil”) (and then commingled with saltwater and oil produced from other CLR wells or non-CLR wells) and separated, saved and sold by CLR at an off-lease saltwater disposal well or central treating unit owned and/or operated by CLR, or one of CLR’s affiliates;

As to Gas

- (iii) gas produced from a CLR operated wellbore which is commingled with other gas from other CLR wells or non-CLR wells connected to a gathering system owned or operated by a non-CLR affiliated entity where CLR sold the gas to a non-CLR affiliated purchaser and received consideration thereon on a basis prior to the residue gas and NGLs being separated, saved and sold as separate products by a non-CLR affiliated entity;
- (iv) gas produced from a CLR operated wellbore which is commingled with other gas from other CLR wells or non-CLR wells and consumed, utilized or retained by a gathering system (i.e., “field fuel”) owned or operated by a non-CLR affiliated entity;
- (v) gas produced from a CLR operated wellbore which is commingled with other gas from other CLR wells or non-CLR wells and consumed, utilized or retained by a gathering system (i.e., “field fuel”) owned or operated by CLR, or one of CLR’s affiliates;
- (vi) gas or gas condensate in the form of “slop oil” or “scrubber oil” produced from a CLR operated wellbore which is commingled with other gas or gas condensate from other CLR wells or non-CLR wells connected to a gathering system owned or operated by a non-CLR affiliated entity, where such slop oil or scrubber oil was collected, saved and sold by the non-CLR affiliated entity, with a portion of revenues therefrom paid to CLR, or one of CLR’s affiliates;
- (vii) gas or gas condensate in the form of “slop oil” or “scrubber oil” produced from a CLR operated wellbore which is commingled with other gas or gas condensate from other CLR wells or non-CLR wells connected to a gathering system owned or operated by CLR, or one of CLR’s affiliates, where such slop oil or scrubber oil was collected, saved and sold by CLR, or one of CLR’s affiliates;
- (viii) gas produced from a CLR operated wellbore which is commingled with other gas from other CLR wells or non-CLR wells and consumed,

utilized or retained by a processing plant (*i.e.*, “plant fuel”) owned or operated by a non-CLR affiliated entity wherein a portion of revenues from the sale of the residue gas or natural gas liquids (“NGLs”) separated therein are paid to CLR, or one of CLR’s affiliates;

(ix) gas produced from a CLR operated wellbore which is commingled with other gas from other CLR wells or non-CLR wells and consumed, utilized or retained by a processing plant (*i.e.*, “plant fuel”) owned or operated by CLR, or one of CLR’s affiliates;

(x) gas and NGLs produced from a CLR operated wellbore which is commingled with other gas or NGLs from other CLR wells or non-CLR wells connected to a processing plant owned or operated by a non-CLR affiliated entity where such NGLs were separated, saved and sold, with a portion of revenues therefrom paid to CLR, or one of CLR’s affiliates;

(xi) gas and NGLs produced from a CLR operated wellbore which is commingled with other gas or NGLs from other CLR wells or non-CLR wells connected to a processing plant owned or operated by CLR, or one of CLR’s affiliates, where such NGLs were separated, saved and sold by CLR, or one of CLR’s affiliates;

(xii) gas produced from a CLR operated wellbore which is commingled with other gas from other CLR wells or non-CLR wells connected to a processing plant owned or operated by a non-CLR affiliated entity where such gas was separated, saved and sold as “residue gas”, with a portion of revenues therefrom paid to CLR, or one of CLR’s affiliates; or

(xiii) gas produced from a CLR operated wellbore which is commingled with other gas from other CLR wells or non-CLR wells connected to a processing plant owned or operated by CLR, or one of CLR’s affiliates, where such gas was separated, saved and sold as “residue gas” by CLR, or one of CLR’s affiliates?

F. Would the term “proceeds”, as referenced throughout the PRSA, include all consideration received by CLR, or one of CLR’s affiliates, upon, or as a consequence of, the sale or other disposition of the “production”, as defined by the PRSA, 52 O.S. §570.2(2), including but not limited to the oil and gas production identified and enumerated in subparagraphs I.E.(i) through (xiii) above?

1. Would “consideration” include the economic value of services performed on behalf of CLR, either by one of CLR’s affiliates or a non-CLR affiliated entity, as a consequence of the sale or other disposition of the production, including but not limited to gathering, compression, dehydration, field fuel, treating, and processing?

2. Would “consideration” include the economic value of contractual rights to receive barrels of oil at a market center (*e.g.*, Cushing) received by CLR, or one of CLR’s affiliates, as a consequence of, or as part of the terms of, the sale or other disposition of oil from the CLR wells by CLR, or one of CLR’s affiliates?

II. Issues involving CLR Transactions with CLR-Affiliated Entities.

A. Is an affiliated or intra-company transaction to be collapsed, disregarded or ignored for the purpose of calculating “royalty proceeds” pursuant to the PRSA (52 O.S. §570.2(8))?

1. If CLR is calculating royalty proceeds on one price, but on resale, a related entity is obtaining a higher price, are the royalty owners entitled to their royalty share of the higher price?

2. Is the key to collapsing, disregarding or ignoring an affiliated transaction for determining royalty proceeds the common control of the two entities?

III. Issues Related to Marketable Product and the Implied Duty to Market.

A. What is the legal definition of a “marketable” product in relation to the sale or disposition of natural gas?

B. As a matter of law or custom or usage of in the industry, are the terms “marketable”, “merchantable” and “pipeline quality” interchangeable in relation to the sale or disposition of gas?

C. As a matter of law, do royalty owners have a right to be paid for oil and gas production on the best price and terms reasonably available to the producer?

D. Is a contract entered into by an operator to sell, deliver or otherwise dispose of oil at a market center (*i.e.*, Cushing), evidence the trier-of-fact may consider in determining whether the operator in fact sold oil from a well on the best price and terms reasonably available to the operator?

E. As a matter of law, does every oil and gas lease include a “duty to market” (also called the “implied covenant to market”), unless (and only to the extent) modified by specific, express lease language allowing deductions to make the product marketable.

F. As a matter of public policy, expressed by legislative enactment effective May 8, 2012, do pooling orders entered by the Oklahoma Corporation Commission on or after May 8, 2012 contain an implied covenant to market.

G. As a matter of public policy, does an operator who invoked the police power of the State of Oklahoma vis-à-vis a force pooling action at the Oklahoma Corporation Commission, prior to May 8, 2012, owe a pooled royalty owner an obligation to create a marketable product from the production obtained from the pooled interest, and to market the production therefrom, for the best price and terms reasonably available?

H. As a matter of law, absent a provision negating the implied covenant to market and expressly providing otherwise, is an oil and gas lessee or operator prohibited from deducting, either directly or indirectly, a proportionate share of gathering, compression, dehydration, field fuel, treating, and processing costs when such costs are associated with creating a marketable product?

I. As a matter of law, is there a rebuttable presumption in favor of the royalty owner, and against the producer, prohibiting deductions being made from the royalty

owners' proceeds and revenues and is the burden placed upon the producer to rebut that presumption before any deduction can be made?

J. As a matter of law, if the CLR intentionally mingled production from a CLR well with production from another CLR well or non-CLR well, and CLR cannot reasonably establish the volume of production attributable to each well, is CLR held liable to the owners of each well for the entire volume of production so mingled under the commingling rule?

K. As a matter of law, as the operator of CLR wells, is CLR, or one of CLR's affiliates, entitled to reap a profit at the expense of CLR's royalty owners?

L. As a matter of law, as the operator of CLR wells, is CLR, or one of CLR's affiliates, ever entitled to recover or deduct expenses from CLR's royalty owners for any purpose in an amount that exceeds actual costs, without allowance for any profit thereon.

IV. Injunctive and/or Mandamus Relief for a Proper Accounting.

Are Strack and CLR's royalty owners entitled to the requested relief sought in the form of injunctive and/or mandamus relief pursuant to 12 O.S. §1381, *et. seq.* and §1451, *et. seq.*, requiring CLR to properly account to its royalty owners for all production and proceeds attributable to the CLR wells and to accurately inform its royalty owners of the facts on which their royalties were based?

Amended Motion for Class Certification, p. 6-13.

Factor 3: The Skill Required to Perform the Legal Service Properly

91. See Factor 2, The Novelty and Difficulty of the Questions Presented by the Litigation, incorporated herein. This Litigation certainly had a substantial number of the novel and difficult questions requiring counsel with specific expertise in this area of the law.

92. Continental is a large, well-funded Defendant represented by very competent counsel with large supporting staffs.

93. This case required Counsel with substantial experience and expertise in oil and gas royalty class actions.

94. Further, this case required Counsel with substantial experience and expertise in Appellate practice.

Factor 4: The Preclusion of Other Employment by the Attorney Due to Acceptance of the Case

95. Class Counsel have dedicated their time, labor, and resources to successfully litigating and resolving this Litigation. As a result of the incredible amount of time we had to spend on this case, each firm (but primarily B&S) has had to forego other work. As previously described herein in the History of the Litigation, Class Counsel litigated the case against Continental for over seven (7) years. If the Settlement is approved, Class Counsel will continue working to implement and finalize the Settlement for an additional two (2) to four (4) years. Throughout this time, Class Counsel has (and will have) represented the Class on a wholly contingent basis, advancing considerable expenses in the process as detailed below.

Factor 5: The Customary Fee

Percentage of Common Fund:

96. **The prevailing customary fee in these types of royalty owner class actions is a contingent fee of 40% of the common fund.** Over 2/3rds (67.55%) of all common funds recovered in oil and gas class actions in Oklahoma over the past 20 years were assessed attorneys' fees at a weighted average of 40.53% of the common fund.

97. As the Executive Director of the Coalition of Oklahoma Surface and Mineral Owners (COSMO), Stowers researches and tracks settlements of oil and gas class actions, including awards of attorneys' fees, litigation expenses, class representative contribution awards, and similar data. **Attached hereto as Exhibit "A" is COSMO's full three (3) page report titled "Summary of 20+ Years of Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)"** ("COSMO's Class Action Tracking Report"). COSMO's Class Action Tracking Report reflects the following summary of Attorneys' Fee Awards ("Common Fund" = "Cash" Portion of

Settlement):

Range of Attorney Fee Awards in Oklahoma O&G Class Actions as a Percentage of the "Common Fund" (Cash Only)	# of Cases	"Common Fund" (Cash Portion only)	Wgt Avg % of Total Reported Cash Common Funds	Total Recovery for the Class	Wgt Avg Atty Fee
Attorneys' Fee ≥ 40%	30	\$1,108,237,553	67.55%	\$1,317,775,653	40.53%
35% ≤ Attorneys' Fee < 40%	6	\$205,511,379	12.53%	\$221,942,770	37.28%
30% ≤ Attorneys' Fee < 35%	14	\$267,974,678	16.33%	\$281,984,441	31.96%
Attorneys' Fee < 30%	6	\$58,847,500	3.59%	\$59,172,500	24.45%
Total Completed O&G Class Actions	56	\$1,640,571,110	100.00%	\$1,880,875,364	38.15%
Additional O&G Class Actions Pending Final Approval	3	\$248,800,000		\$374,265,000	
Total of All Reported O&G Class Actions	59	\$1,889,371,110		\$2,255,140,364	

Attorneys' Fee Awards by Wgt. Avg. of Common Fund (cash portion of recovery)

Over 2/3rds (67.55%) of All Common Funds Recovered (i.e., \$1,317,775,653) were assessed Attorneys' Fees at a Wgt Avg of 40.53%

- **56 completed Class Action Settlements** are reported, with **Common Funds totaling over \$1.6 Billion (\$1,640,571,110)**, plus another **3 pending settlements** bringing the total Common Funds to almost **\$1.9 Billion (\$1,889,371,110)**;
- **30 reported awards of Attorneys' Fees are greater than or equal to 40% of the Common Fund (40.53% wgt avg)**; and
- **67.55% of Common Fund Dollars were assessed Attorneys' Fees greater than or equal to 40% of the Common Fund (\$1,317,775,653 / \$1,640,571,110)**.

For additional detail, see (1) Exhibit A attached hereto (*Summary of 20+ Years of Oil and Gas Class Actions Completed in Oklahoma (Both State and Federal Courts)*); (2) Supporting Fee Orders, Exhibits 1 through 56 submitted simultaneously herewith; and (3) ¶ 82 of this Declaration.

Hourly Rates – “Local Legal Community”:

98. While Class Counsel did not bill Plaintiffs on an hourly basis, and this type of complex litigation is never undertaken on an hourly basis, it may be appropriate for the Court to review and consider as part of Factor 5 appropriate hourly rates “predicated on the standards within the local legal community” (*Burk v City of Oklahoma City*, 1979 OK 115, ¶20) for this type of complex litigation. The Honorable Kimberly West recently examined this specific issue and determined that the appropriate “legal community” to be considered in these types of cases was that of a “national complex litigation firm.” See *Chieftain v XTO*, 11-CV-29-KW, ¶6(jj), Supporting Fee Orders, Exhibit 26 and *Reirdon v XTO*, 16-CV-87-KW, ¶6(jj), Supporting Fee Orders, Exhibit 27. In arriving at this conclusion, Judge West relied in part upon the Declaration of Geoffrey P. Miller, a copy of which is included in Supporting Fee Orders, Exhibit 26(D). See

Chieftain (Supporting Fee Orders, Exhibit 26) at ¶6(jj), citing Miller Decl. (Supporting Fee Orders, Exhibit 26(D)) at ¶83.

Hourly Rates – Use of Hourly Rates in Contingent Fee Cases:

99. Judge West also discussed concerns with using hourly rates in complex litigation where the parties have negotiated a contingent fee arrangement:

I find the use of an hourly rate in a contingent fee case is an inefficient endeavor in the context of commercial litigation and typically results in the gross understatement of hourly rates. See *Reirdon* Fee Order at ¶6(kk); NPR Decl. at ¶27. **This is so because most attorneys do not desire to advance costs and expenses and work by the hour with no guarantee of success without also negotiating a guaranteed multiple of that rate upon being successful.** See *Reirdon* Fee Order at ¶6(kk); NPR Decl. at ¶27. Further, as Class Counsel state, “our goal is always to achieve the best result possible for the class under the circumstances at the time, and if possible, resolve all claims as quickly and efficiently as possible.” NPR Decl. at ¶8; *Reirdon* Fee Order at ¶6(kk).

Chieftain (Supporting Fee Orders, Exhibit 26) at ¶6(jj).

Hourly Rates – Survey of National Complex Litigation Firm Rates:

100. In *Chieftain*, Professor Miller provided substantial empirical data regarding hourly rates of national complex litigation law firms. Specifically, the following table presents a summary of hourly rates approved from 2008 through 2012 in class action settlements in the U.S. District Court for the Southern District of New York—the court in which Professor Miller’s previous empirical studies on class action settlements and attorneys’ fees found the most class actions consistently were filed. Miller Decl. (Supporting Fee Orders, Exhibit 26(D)) at ¶88. Although these data points are not all-inclusive, based on Professor Miller’s experience and scholarly research, he believed they reflect a reasonable cross-section of market rates for qualified plaintiffs’ counsel in complex class actions nationwide over the past decade:

National Class Action Plaintiff Firms' Billing Rates			
Case Name/Number	Plaintiff Firm	Citation	Partners' Fee Range
<i>In re MGM Mirage Sec. Litig.</i> , No. 2:09-cv-01558-GMN-VCF	NPR, Kessler Topaz Meltzer & Check LLP and Robbins Geller Rudman & Dowd LLP	(D. Nev.) (Nov. 2015) (Dkt. Nos. 366-1, 367-1, 368-1)	\$625 - \$925
<i>In re Bear Stearns Companies, Inc. Securities, Derivative and ERISA Litig.</i> , No. 08-cv-2793 (RWS)	Berman DeValerio	(S.D.N.Y.) (Aug. 2012) (Dkt. No. 302-4)	\$595 - \$780
<i>In re Bear Stearns Companies, Inc. Securities, Derivative and ERISA Litig.</i> , No. 08-cv-2793 (RWS)	Labaton Sucharow LLP	(S.D.N.Y.) (Aug. 2012) (Dkt. No. 302-5)	\$725 - \$975
<i>Board of Trustees of the AFTRA Retirement Fund et al. v. JPMorgan Chase Bank, N.A.</i> , No. 1:09-cv-00686 (SAS) (DCF)	NPR and Kessler Topaz Meltzer & Check LLP	(S.D.N.Y.) (May 2012) (Dkt. No. 187-1)	\$625 - \$735
<i>In re Wachovia Equity Securities Litigation</i> , No. 08 Civ. 6171 (RJS)	Kirby McInerney LLP	(S.D.N.Y.) (Apr. 2012) (Dkt. No. 106-5)	\$600 - \$800
<i>In re Lehman Brothers Securities and ERISA Litig.</i> , No. 1:08-cv-05523 (LAK) (GWG)	Bernstein, Litowitz & Grossman LLP	(S.D.N.Y.) (Mar. 2012) (Dkt. No. 343-12)	\$650 - \$975
<i>In re Lehman Brothers Securities and ERISA Litig.</i> , No. 1:08-cv-05523 (LAK) (GWG)	Kessler Topaz Meltzer & Check LLP	(S.D.N.Y. Mar. 2012) (Dkt. No. 343-13)	\$600 - \$725
<i>In re Lehman Brothers Securities and ERISA Litigation</i> , No. 1:08-cv-05523 (LAK) (GWG)	Labaton Sucharow LLP	(S.D.N.Y.) (Mar. 2012) (Dkt. No. 343-17)	\$750 - \$975
<i>Rubin v. MF Global, Ltd., et al.</i> , No. 08 Civ. 2233 (VM)	Barrack Rodos & Bacine	(S.D.N.Y.) (Nov. 2011) (Dkt. No. 198)	\$560 - \$740
<i>Rubin v. MF Global, Ltd., et al.</i> , No. 08 Civ. 2233 (VM)	Cohen Milstein Sellers & Toll PLLC	(S.D.N.Y.) (Nov. 2011) (Dkt. No. 198)	\$700 - \$795
<i>In re Wachovia Preferred Sec. and Bond/Notes Litig.</i> , No. 09 Civ. 6351 (RJS)	Bernstein Litowitz Berger & Grossman LLP	(S.D.N.Y.) (Oct. 2011) (Dkt. No. 148-7)	\$650 - \$975
<i>In re Wachovia Preferred Sec. and Bond/Notes Litig.</i> , No. 09 Civ. 6351 (RJS)	Kessler Topaz Meltzer & Check, LLP	(S.D.N.Y.) (Oct. 2011) (Dkt. No. 148-8)	\$600 - \$725
<i>In re Wachovia Preferred Sec. and Bond/Notes Litig.</i> , No. 09 Civ. 6351 (RJS)	Robbins Geller Rudman & Dowd LLP	(S.D.N.Y.) (Oct. 2011) (Dkt. No. 148-9)	\$565 - \$775
<i>Cornwell et al. v. Credit Suisse Group et al.</i> , No. 08 Civ. 03758 (VM)	Robbins Geller Rudman & Dowd LLP	(S.D.N.Y.) (July 2011) (Dkt. No. 117)	\$565 - \$795
<i>Lapin v. Goldman Sachs & Co.</i> , No. 04 Civ. 2236 (RJS)	Kirby McInerney LLP	(S.D.N.Y.) (Nov. 2010) (Dkt. No. 129)	\$600 - \$900

<i>Lapin v. Goldman Sachs & Co.</i> , No. 04 Civ. 2236 (RJS)	Glancy Binkow & Goldberg LLP	(S.D.N.Y.) (Nov. 2010) (Dkt. No. 129)	\$625 - \$725
<i>In re MBIA, Inc., Sec. Litig.</i> , No. 08 Civ. 0264 (KMK)	Bernstein Litowitz Berger & Grossman LLP	(S.D.N.Y.) (Dec. 2011) (Dkt. No. 92)	\$700 - \$975
<i>In re Refco, Inc. Secs. Litig.</i> , No. 05 Civ. 08626 (JSR)	Grant & Eisenhofer P.A.	(S.D.N.Y.) (Sept. 2010) (Dkt. No. 738-5)	\$650 - \$845
<i>In re Merrill Lynch & Co. Inc., Securities, Derivatives and ERISA Litig.</i> , No. 07-cv-09633 (LBS) (AJP) (DFE)	Kaplan Fox & Kilsheimer LLP	(S.D.N.Y.) (Jun. 2009) (Dkt. No. 246-4)	\$550 - \$775
<i>In re Merrill Lynch & Co. Inc., Securities, Derivatives and ERISA Litig.</i> , No. 07-cv-09633 (LBS) (AJP) (DFE)	Barrack, Rodos & Bacine	(S.D.N.Y.) (Jun. 2009) (Dkt. No. 246-5)	\$525 - \$695
<i>In re Merrill Lynch & Co. Inc., Securities, Derivatives and ERISA Litig.</i> , No. 07-cv-09633 (LBS) (AJP) (DFE)	Berger & Montague, P.C.	(S.D.N.Y.) (Jun. 2009) (Dkt. No. 246-6)	\$460 - \$725
<i>In re Merrill Lynch & Co. Inc., Securities, Derivatives and ERISA Litig.</i> , No. 07-cv-09633 (LBS) (AJP) (DFE)	Pomerantz Haudek Grossman & Gross LLP	(S.D.N.Y.) (Jun. 2009) (Dkt. No. 246-7)	\$525 - \$830
<i>In re Merrill Lynch & Co. Inc., Securities, Derivatives and ERISA Litig.</i> , No. 07-cv-09633 (LBS) (AJP) (DFE)	Murray, Frank Sailer LLP	(S.D.N.Y.) (Jun. 2009) (Dkt. No. 246-8)	\$675 - \$750
<i>In re Telik, Inc. Secs. Litig.</i> , No. 07 Civ. 04819 (CM)	Bernstein Liebhard & Lifshitz, LLP	(S.D.N.Y.) (Aug. 2008) (Dkt. No. 72)	\$700 - \$750

Miller Decl. (Supporting Fee Orders, Exhibit 26(D)) at ¶88.

101. Judge West considered the empirical data presented regarding national complex litigation law firms submitted by Miller (including the table reflected in ¶97 above) and held “*the collective empirical data and competent evidence submitted demonstrates the reasonableness of the hourly rates submitted by Class Counsel here. See Reirdon Fee Order at ¶6(oo).*” *Chieftain* (Supporting Fee Orders, Exhibit 26) at ¶6(nn). (The hourly rates approved by Judge West are set forth in ¶98 below.) Judge West’s recap of the empirical data in her Order was as follows:

Professor Miller has opined that, from an empirical standpoint, numerous different data sources can be evaluated to compare the rates submitted by Class Counsel to those regularly charged for comparable representation in the national complex litigation legal community. Miller Decl. at ¶¶84-85; *see also Reirdon Fee Order at*

¶6(nn). For example, Professor Miller has found that “public filings in sophisticated federal bankruptcy litigation—an area of law in which many national complex litigation firms practice—often reveal the hourly rates that such firms charge for representation by their partners in complex bankruptcy matters, *where there is no risk of nonpayment of fees.*” Miller Decl. at ¶85; *see also Reirdon Fee Order* at ¶6(nn). Professor Miller’s research shows that the standard hourly rate approved for partners from prominent complex litigation firms on the defense-side in high-stakes matters in one bankruptcy court between 2010 and 2012 (five to seven years ago) significantly exceeds the rates submitted by Class Counsel here. Miller Decl. at ¶85 (citing partner rates ranging from \$580 - \$1,140); *see also Reirdon Fee Order* at ¶6(nn). Professor Miller further found that substantial survey data demonstrates a similar pattern. Miller Decl. at ¶86; *see also Reirdon Fee Order* at ¶6(nn). For example, a report published in December 2009 shows the rates for bankruptcy lawyers at firms that regularly represent defendants in complex litigation approached \$1,000 per hour over eight years ago. Miller Decl. at ¶86 (citing partner rates ranging from \$810 - \$980); *see also Reirdon Fee Order* at ¶6(nn). Additional data regarding energy companies with a place of business in Oklahoma demonstrates a similar pattern of hourly rates and supports the rates requested by Class Counsel here. Miller Decl. at ¶87 (citing partner rates ranging from \$475 - \$1,445); *see also Reirdon Fee Order* at ¶6(nn). Further, Professor Miller reviewed comparable billing rates for national complex litigation firms on the plaintiffs’ side in prior class action settlements in complex matters. Miller Decl. at ¶88; *see also Reirdon Fee Order* at ¶6(nn). Professor Miller’s study of hourly rates approved from 2008 through 2012 in class action settlements in the U.S. District Court for the Southern District of New York—the court in which Professor Miller’s previous empirical studies on class action settlements and attorneys’ fees found the most class actions consistently were filed—reflects a “reasonable cross-section of market rates for qualified plaintiffs’ counsel in complex class actions nationwide over the past decade.” Miller Decl. at ¶88 (citing partner rates ranging from \$460 - \$975); *see also Reirdon Fee Order* at ¶6(nn). A 2014 dataset collected by the *National Law Journal* regarding 2014 billing rates reported national *average* partner rates that ranged from \$345 to \$1,055 per hour and *average* associate rates that ranged from \$135 to \$678 per hour. *See* ALM Legal Intelligence, 2014 NLJ Billing Report (2014); Miller Decl. at ¶89; *see also Reirdon Fee Order* at ¶6(nn). Professor Miller further found the “reasonableness of Class Counsel’s rates is further demonstrated by the fact that ‘59% of corporate counsel at large companies now pay at least one law firm \$1,000 per hour’ and many corporations pay hourly rates of up to \$2,000 per hour.” Miller Decl. at ¶90 (citing

a May 2016 study); *see also Reirdon Fee Order* at ¶6(nn). Moreover, other courts have approved Class Counsel’s rates of \$850/hour and higher. *See, e.g., In re MGM Mirage Sec. Litig.*, No. 2:09-cv-01558-GMN-VCF (D. Nev. Mar. 1, 2016) (Order Awarding Attorneys’ Fees and Expenses (Dkt. No. 396)), *affirmed by* No. 16-15534 (9th Cir. Sept. 2017) (unpublished); *see also Reirdon Fee Order* at ¶6(nn). And, based on Class Counsel’s personal experience, the hourly rates submitted here are well below the actual market rate because no firm who works on an hourly basis would agree to work at these rates without also negotiating a guaranteed multiple of that rate upon being successful. NPR Decl. at ¶¶8-27; *see also Reirdon Fee Order* at ¶6(nn).

Chieftain (Supporting Fee Orders, Exhibit 26) at ¶6(mm)

Hourly Rates – COSMO’s “Recap of Recently Reported (2017-2018) Hourly Rates Approved in Oil & Gas Royalty Accounting Class Actions”:

As the Executive Director of the Coalition of Oklahoma Surface and Mineral Owners (COSMO), Stowers researches and tracks approved hourly rates in complex oil and gas accounting class actions in Oklahoma. Attached hereto as Exhibit “B” is COSMO’s report titled “Recent Reported Lodestar Rates in Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)” (“COSMO’s Hourly Rate Tracking Report”). COSMO’s Hourly Rate Tracking Report summarizes the approved hourly rates for Senior Attorneys in complex oil and gas class actions in Oklahoma in 2017 and 2018 of \$550 to \$900 per hour:

Recap of Recently Reported (2017-2018) Hourly Rates Approved in Oil & Gas Royalty Accounting Class Actions in Oklahoma				
Number of Law Firms	Number of Attorneys	Category	Hourly Rate Range	Number of Case References
7	14	Senior Attorney	\$550 to \$900	2 (See Below)
7	20	Attorney	\$350 to \$700	2 (See Below)
4	16	Paralegal	\$90 to \$300	2 (See Below)

Detail of Reported Hourly Rates Reported and Approved in Recent Oil & Gas Royalty Accounting Class Actions				
Law Firm	Attorney	Category	Hourly Rate	Case Reference
Barnes & Lewis (OK)	Robert Barnes	Senior Attorney	\$900	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (TX)	David E. Sharp	Senior Attorney	\$900	<i>Chieftain v XTO</i> (2018 Ex 26)
Barnes & Lewis (OK)	Patranell Lewis	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Lawrence R. Murphy, Jr., PC (OK)	Larry Murphy	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Bradley Beckworth	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Jeffrey Angelovich	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Whitten Burrage (OK)	Michael Burrage	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Rex A. Sharp	Senior Attorney	\$850	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Joseph R. Gunderson	Senior Attorney	\$850	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Barbara Frankland	Senior Attorney	\$725	<i>Chieftain v XTO</i> (2018 Ex 26)
Brickell & Associates PC (OK)	Bradley D. Brickell	Senior Attorney	\$650	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
McNamara, Inbody & Parrish	Stephen McNamara	Senior Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
McNamara, Inbody & Parrish	Brian Inbody	Senior Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
McNamara, Inbody & Parrish	Gil Parrish	Senior Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Gunderson Sharp, LLP (KS)	Ryan C. Hudson	Attorney	\$700	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Larkin Walsh	Attorney	\$700	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Partner	Attorney	\$700	<i>Chieftain v XTO</i> (2018 Ex 26)
Benson Law Firm (OK)	Loyd L. Benson	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Branch Law Firm (NM)	Cindy Zedalis	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Branch Law Firm (NM)	Turner Branch	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Branch Law Firm (NM)	Margaret Branch	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Law Office of Brian K Branch (NM)	Brian Branch	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Law Office of Karen Aubrey (NM)	Karen Aubrey	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Stan A Koop Lawyer (OK)	Stan Koop	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Stephen Beam, P.C. (OK)	Stephen Beam	Attorney	\$550	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Stacey Smith	Attorney	\$500	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Christine Fritz	Attorney	\$500	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Michael Kelly	Attorney	\$500	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Timothy Prentice	Attorney	\$500	<i>Bank of Am v ElPaso</i> (2017 Ex 28)
Nix, Patterson & Roach (TX)	Associates– 6-plus years	Attorney	\$500	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Scott Goodger	Attorney	\$475	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Associates– 4-6 years	Attorney	\$450	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Associates– 2-4 years	Attorney	\$400	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Associates– 1st year	Attorney	\$350	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Project Associate (Manager)	Paralegal	\$300	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Project Associate	Paralegal	\$275	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Senior Paralegal	Paralegal	\$275	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Paralegal	Paralegal	\$250	<i>Chieftain v XTO</i> (2018 Ex 26)
Barnes & Lewis (OK)	Legal Assistant	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Marsha Duea	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Vanessa Noah	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Sheri Squaires	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Debbie Schick	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Nicolle Phifer	Paralegal	\$175	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Alex Sharp	Paralegal	\$175	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Cindy Hartig	Paralegal	\$175	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Renee Ballard	Paralegal	\$150	<i>Chieftain v XTO</i> (2018 Ex 26)
Bank of America v ElPaso (OK)	3 Paralegals	Paralegal	\$90	<i>Bank of Am v ElPaso</i> (2017 Ex 28)

Hourly Rates – Class Counsel’s Hourly Rates:

102. The prevailing customary fee in these types of royalty owner class actions is a contingent fee of 40% of the common fund, and while Class Counsel did not bill Plaintiffs or undertake this litigation on an hourly basis, Class Counsel submit the following hourly rates as

reasonable hourly rates “*predicated on the standards within the local legal community*” (Burk) – that community being national complex litigation firms for this type of action- for this Court to consider in analyzing the reasonableness of Class Counsel’s requested 40% contingent fee:

Strack v Continental				
Summary of Class Counsel's Hourly Rates				
Firm	Attorney or Paralegal	Title	Hourly Rate	Range of Rates within the "Legal Community"
Burns & Stowers	Douglas E. Burns	Senior Attorney	\$875	\$550-\$900
Burns & Stowers	Terry L. Stowers	Senior Attorney	\$875	\$550-\$900
Park, Nelson, Caywood, Jones	Kerry Caywood	Attorney	\$500	\$350-\$700
Park, Nelson, Caywood, Jones	Angela Caywood Jones	Attorney	\$500	\$350-\$700
Burns & Stowers	Pamela Moulton	Paralegal	\$275	\$90-\$350
Burns & Stowers	Tammie Wheeler	Paralegal	\$200	\$90-\$350

Factor 6: Whether the Fee is Fixed or Contingent

103. When this Litigation began, Class Representatives agreed to a contingent attorneys’ fee of 40% of all consideration recovered:

If we are successful, we will receive as a fee forty percent (40%) of all consideration which is received by you as a result of our efforts in prosecuting this claim, *i.e.*, forty percent (40%) of the gross recovery. As for the remainder of the class members, we will apply to the Court for the same forty percent (40%) of gross recovery fee. In the event such consideration includes non-cash consideration, such as the agreement to do or not do some future act, the present cash value of such non-cash consideration shall be determined and utilized in computing the full attorney's fee payable pursuant to this agreement.

See Fee Agreements attached to Class Counsel’s Motion for Attorneys’ Fees and Expenses, Exhibit “A.”

104. **“In a certified class action, the court may award reasonable attorney fees and nontaxable costs that are authorized by law or by the parties' agreement.”** [Emphasis added.]

12 O.S. § 2023(G)(1).

105. **The Court has the authority to extend contingency fee agreements entered into between the Class Representatives and Class Counsel to the entire Class.**

Contingent fee agreements may be appropriate in class action cases. . . . Many courts have held . . . that once a class is certified and a decision on the merits is had, the trial court may decide whether to approve the contingent fee agreement, and **whether to extend the contingent arrangement to all class members.** [Emphasis added.]

Sholer v. State of Oklahoma, 1999 OK CIV APP 100, ¶¶ 13-14, 990 P.2d 294.

106. Oklahoma District Courts considering an award of attorneys' fees in oil and gas class actions have recognized the importance of contingency fees in our justice system, and in particular in class actions:

Although contingent fee contracts are subject to restrictions . . . such agreements have generally been enforced unless the contract is unreasonable. **Often contingent fee agreements are the only means possible for litigants to receive legal services ---- contingent fees are still the poor man's key to the courthouse door. The contingent fee system allows persons who could not otherwise afford to assert their claims to have their day in Court.** [Emphasis added. Footnotes omitted.] [Quoting from] *Sneed v. Sneed*, 1984 OK 22, ¶3, 681 P.2d 754.

Honorable Richard Perry, *Continental Resources v. Conoco*, CJ-2000-356, District Court of Garfield County, at pp. 5-6 (Supporting Fee Orders, Exhibit 2).

Factor 7: Time Limitations Imposed by the Client or the Circumstances

107. At various times and for extended periods, the scheduling and deadlines in this protracted litigation required 100% of the resources of B&S. Continental is a large, well-funded Defendant represented by very competent counsel with large supporting staffs. To fulfill our obligations to the Class, B&S had to refuse other work for existing and potential new clients.

Factor 8: The Amount in Controversy and the Results Obtained

108. The **Class Gross Damage Model for Time Period 1** reflected potential Class Damages of:

\$ 56.5 Million Unpaid Royalties
\$ 84.7 Million 12% Statutory Interest
\$141.2 Million Class Gross Damages for Time Period 1

109. After making necessary adjustments for the quality of the Class Members' oil and gas leases within the Woodford Shale Gas Gathering System and 3rd-Party Owned Gathering Systems, the **Class Adjusted Damage Model for Time Period 1** reflected potential Class Damages of:

\$ 39.6 Million Unpaid Royalties
\$ 65.4 Million 12% Statutory Interest
\$105.0 Million Class Adjusted Damages for Time Period 1

110. In negotiating a final settlement of the Litigation, Class Counsel: (a) extensively reviewed the Discovery Information; (b) considered the complex law in Oklahoma regarding the obligations of operators in paying royalties; and (c) took into account the relative merits of specific claims and causes of action, as well as the various litigation risks associated with continuing the Class Action Litigation ("Litigation Risk Analysis"). After considering the Litigation Risk Analysis, Class Counsel recommended, and Class Representatives approved, a settlement for the Time Period 1 Claims as follows:

\$ 3,914,120.31 - Woodford Shale Gathering System
\$ 6,656,720.84 - Matli Gathering System
\$11,199,530.85 - Eagle Chief Gathering System
\$21,427,238.03 - Other Third-party Owned Gathering Systems
\$ 4,443,748.18 - Waste or Skim Oil Claim
\$ 2,158,641.79 - Additional Consideration on Oil Sales
\$49,800,000.00 - Total Gross Sub-Class 1 Payment

111. **The Total Gross Sub-Class 1 Payment represents a 47.5% recovery of the Class Adjusted Damages for Time Period 1.** Viewed another way, the Total Gross Sub-Class 1 Payment represents a recovery of 100% of the Class Adjusted Royalties Due for Time Period 1, plus 3% compounded annual interest thereon.

112. In view of the Litigation Risk involved in this Litigation, Class Counsel consider

this to be a very good recovery for Sub-Class 1, and considering the value of the Settlement as to Sub-Class 2 and the benefits for the Future Production Period, which together exceed the value of the Sub-Class 1 recovery, Class Counsel consider this to be an excellent Settlement for the Class.

Factor 9: The Experience, Reputation and Ability of the Attorney

113. Properly prosecuting this Litigation required counsel of significant and particularized skills. Class Counsel are comprised of highly skilled and dedicated attorneys with experience prosecuting large class actions such as this. Class Counsel has unique experience with oil and gas royalty underpayment class actions in particular. This Litigation has required investigation and mastery of complex factual circumstances, the ability to develop creative legal theories, and the skill to respond to a host of legal defenses. To properly perform the legal services this Litigation required, Class Counsel called on their extensive knowledge of gas marketing, engineering, damages modeling and royalty payment practices.

114. Class Counsel regularly represent plaintiffs in complex oil and gas litigation, and have served as Class Counsel in several class action cases involving oil and gas issues. B&S practice primarily in the area of complex oil and gas litigation, with over 39 years of experience for Burns (as both an attorney and petroleum engineer), and 33 years of experience for Stowers (as both an attorney and a Certified Public Accountant). B&S (and its team of attorneys and experts) successfully tried and defended on appeal the *Bridenstine v. Kaiser-Francis* royalty owner class action that ultimately resulted in recovery of \$109,974,437 in damages. (See Supporting Fee Cases, Exhibit 4.) *Bridenstine* is the **only** case of this nature that has been tried to a jury (through verdict) and affirmed on appeal in Oklahoma. B&S has served as Class Counsel in the following oil and gas class actions that are now resolved:

<u>Case Reference</u>	<u>Common Fund</u>	<u>Supporting Fee Cases, Ex #</u>
<i>Bridenstine v. Kaiser-Francis</i>	\$109,974,437	4

<i>Lobo v. BP</i>	\$150,000,000	22
<i>Robertson v. Sanguine</i>	\$ 13,250,000	5
<i>Taylor v. Texaco</i>	\$ 12,000,000	40
<i>Velma-Alma v. Chesapeake</i>	\$ 10,500,000	12

B&S is presently counsel in two (2) other pending class actions, *Chockley v. BP*, No. CJ-2002-84, District Court of Beaver County (currently in the settlement approval process as part of *Cecil v. BP*, No. 16-CV-00410-RAW, United States District Court for the Eastern District of Oklahoma for \$147,000,000 plus and estimated \$65,000,000 in past and future benefits) and *Fisher v. Exxon*, CJ-2002-125, District Court of Texas County. Furthermore, Stowers was appointed by the District of Caddo County to serve as the Special Master overseeing the distribution process in *Simmons v. Anadarko* (\$155,000,000 settlement), Supporting Fee Cases, Exhibit 1.

115. B&S experience in the above stated cases, and their extensive background and knowledge of Oklahoma oil and gas law, was of great benefit in successfully pursuing the Class Claims in this Litigation.

116. Class Counsel Kerry Caywood’s practice has involved oil and gas litigation for over fifty (50) years. Mr. Caywood has served as local Class Counsel in numerous royalty owner class actions.

117. The skill and experience Class Counsel obtained in litigating large commercial class actions, and royalty underpayment class actions in particular, was required in this Litigation, especially considering the quality of lawyers that make up Continental’s defense team, who are skilled class action defense attorneys with substantial oil and gas knowledge and experience.

Factor 10: Whether or Not the Case is an Undesirable Case

118. The risk and changing status of the law made this case undesirable in an economic sense when Class Counsel agreed to accept the engagement. The case was litigated against the backdrop of a class action standard that is in flux, and a substantive rule (the “marketable product”

rule) that has been the object of repeated challenge in both the judicial and legislative arenas. It is quite undesirable for lawyers to take a case in which the basic rules may change during the life of the litigation, especially when the litigation is likely to take many years, thus providing an extended period of exposure to changing laws.

119. Class cases are also less desirable than ordinary hourly cases because the attorneys not only have to take much greater risk, but to live with that risk for a period of many years. This Litigation already has taken over seven (7) years from the initial investigation, and if not settled would likely take at least ten (10) more years to reach a jury verdict. The risk in terms of time invested and out-of-pocket expense make cases such as this very undesirable.

Factor 11: The Nature and Length of the Professional Relationship with the Client

120. At the time this Litigation commenced, Bill Strack was the Trustee of two of the Plaintiff Trusts. Bill Strack was the long-time President of the Blaine County Mineral Owners Association. As the Executive Direct of COSMO, Stowers had a relationship with the Blaine County Mineral Owners Association. Prior to this Litigation: (1) Class Counsel Kerry Caywood had existing Attorney-Client Relationships with the Plaintiffs; and (2) B&S did not have existing Attorney-Client Relationships with the Plaintiffs.

Factor 12: Awards in Similar Cases

121. As set forth above and on **Exhibit “A” attached hereto, COSMO’s Class Action Tracking Report** reflects the awards of attorneys’ fees in similar cases (“Common Fund” = “Cash” Portion of Settlement):

Range of Attorney Fee Awards in Oklahoma O&G Class Actions as a Percentage of the "Common Fund" (Cash Only)	# of Cases	"Common Fund" (Cash Portion only)	Wgt Avg % of Total Reported Cash Common Funds	Total Recovery for the Class	Wgt Avg Atty Fee
Attorneys' Fee ≥ 40%	30	\$1,108,237,553	67.55%	\$1,317,775,653	40.53%
35% ≤ Attorneys' Fee < 40%	6	\$205,511,379	12.53%	\$221,942,770	37.28%
30% ≤ Attorneys' Fee < 35%	14	\$267,974,678	16.33%	\$281,984,441	31.96%
Attorneys' Fee < 30%	6	\$58,847,500	3.59%	\$59,172,500	24.45%
Total Completed O&G Class Actions	56	\$1,640,571,110	100.00%	\$1,880,875,364	38.15%
Additional O&G Class Actions Pending Final Approval	3	\$248,800,000		\$374,265,000	
Total of All Reported O&G Class Actions	59	\$1,889,371,110		\$2,255,140,364	

Attorneys' Fee Awards by Wgt Avg of Common Fund (cash portion of recovery)

Over 2/3rds (67.55%) of All Common Funds Recovered (i.e., \$1,317,775,653) were assessed Attorney's Fees at a Wgt Avg of 40.53%

- **56 “final & unappealable” Class Action Settlements** are reported, with Common Funds totaling over **\$1.6 Billion (\$1,640,571,110)**;
- **30 reported awards of Attorneys’ Fees are greater than or equal to 40% of the Common Fund (40.53% wgt avg)**; and
- **67.55% of Common Fund Dollars were assessed Attorneys’ Fees greater than or equal to 40% of the Common Fund (\$1,317,775,653 / \$1,640,571,110)**.

For additional detail, see (1) Exhibit A attached hereto (*Summary of 20+ Years of Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)*); (2) Supporting Fee Orders, Exhibits 1 through 56 to be submitted at the Fairness Hearing; and (3) ¶ 82 of this Declaration.

Factor 13: The Risk of Recovery in the Litigation

122. The risk of recovery in this litigation has been discussed extensively throughout this Declaration, which is incorporated herein. As reflected above, the Litigation Risk analysis resulted in a Settlement of approximately 50% of the Adjusted Damage Model; the actual litigation risk was substantially more than 50%.

123. The case was litigated against the backdrop of a class action standard that is in flux, and a substantive rule (the “marketable product” rule) that has been the object of repeated challenge in both the judicial and legislative arenas. For example, the industry recently requested the Oklahoma Supreme Court accept *certiorari* to review the “marketable product” rule, asserting that the Oklahoma Supreme Court should reverse or modify the existing rule such that royalty owners would be required to share in all costs incurred after the gas leaves the tank battery. If five (5) Supreme Court Justices would have agreed with their argument, the recovery in this case would have been severely reduced. See *Pummill v. Hancock*, Appeal No. 114,703, 2018 OK CIV APP _____ (cert denied 5/21/2018). **The risk of no recovery in this case was very real.**

“Percentage of Fund” or “Lodestar”

124. The Court will note that 12 O.S. §2023(G) neither references either the “Percentage of Fund” or “Lodestar” approach to calculating a reasonable fee, nor mandates the use of either

approach over the other. However, §2023(G)(1) does codify *Sholer*² allowing the Court to extend the contract between the parties to the entire class (“*the court may award reasonable attorney fees and nontaxable costs that are authorized by law or by the parties' agreement*”). Furthermore, the factors set forth in 12 O.S. §2023(G)(4)(e) allow the Court to consider underlying information necessary to use either approach, depending upon the facts and circumstances of each class action:

“**Percentage of Fund**”: (5) the customary fee; (6) whether the fee is fixed or contingent; and (12) awards in similar cases; and

“**Lodestar**”: (1) time and labor required, multiplied by (5) the customary fee (*e.g.*, hourly rates); then considering all of the other eleven (11) factors to determine the amount, if any, of an enhancement.

125. As the Executive Director of the Coalition of Oklahoma Surface and Minerals Owners (COSMO), Stowers has particular knowledge of the legislative intent with regard to the enactment of 12 O.S. §2023(G). **Stowers was the person who drafted and negotiated §2023(G) with President Pro Temp of the Senate, Glenn Coffee, when it was originally added as part of the “Tort Reform Bill” in 2009 (HB1603) (Re-enacted by HB1013X during the 1st Extr. Sess. in 2013 after the Oklahoma Supreme Court held HB1603 to be unconstitutional “log-rolling” violating the Single Subject Rule). Various versions of §2023(G) were considered during the debates ranging over a period of 2004 through 2009; versions that mandated the Lodestar approach; versions that mandated the Percentage of Fund approach; versions that mandated Lodestar, with a multiplier cap; versions that mandated Percentage of Funds, with a % cap. At the end of the day, myself (Stowers) and President Pro Temp Coffee agreed upon an approach that gave the trial court both guidance on the factors to consider when determining a**

² See *Sholer v. State of Oklahoma*, 1999 OK CIV APP 100, ¶¶ 13-14 (“*Contingent fee agreements may be appropriate in class action cases. . . . Many courts have held . . . that once a class is certified and a decision on the merits is had, the trial court may decide whether to approve the contingent fee agreement, and whether to extend the contingent arrangement to all class members.*” [Emphasis added.]).

“reasonable” fee, as well as the flexibility to tailor the approach to the facts of the case; neither mandating nor giving preference to either the “Percentage of Fund” or “Lodestar” approach over the other. This agreement was included in 2009 (HB1603) (Re-enacted by HB1013X during the 1st Extr. Sess. in 2013), passed by the Legislature, and enacted into law as 12 O.S. §2023(G). Any other interpretation would be contrary to language of §2023(G) and the intent of the legislative negotiators and drafters.

126. The Federal 10th Circuit Court of Appeals recently speculated that Oklahoma law mandated a Lodestar approach to determining attorneys’ fees in class actions, with a low to no enhancement multiplier, *see Chieftain v. Enervest*, 888 F.3d 455 (10th Cir. 2017). That interpretation is contrary to the literal language of 12 O.S. §2023(G), and certainly contrary to the legislative intent discussed above. Simply put, the 10th Circuit got it wrong. The 10th Circuit’s speculation on Oklahoma law in *Chieftain v. Enervest* is not binding on this Court. The Court should follow the statutory guidelines set forth in 12 O.S. §2023(G), not the 10th Circuit’s speculation. *See also* Declaration of former Court of Civil Appeals Judge, William C. Hetherington submitted simultaneously herewith.

127. Relying in part on the Declaration of Steven S. Gensler, the W. DeVier Pierson Professor of Law at the University of Oklahoma, (*see* Supporting Fee Orders, Exhibit 26(e)), Judge West recently concurred with Class Counsel’s interpretation of the law in Oklahoma as stated in ¶124-125 above, and disagreed with the 10th Circuit’s interpretation as stated in ¶126.

The Oklahoma Legislature amended 12 OKLA. STAT. §2023 in 2013 to add a new subsection governing the calculation of attorney’s fees, 2023(G)(4)(e), which states that courts shall consider thirteen factors “in arriving at a fair and reasonable fee for class counsel,” only one of which is the “time and labor required.” *See* Gensler Decl. at ¶¶54-63; Reirdon Fee Order at ¶6(ee). These factors include all of the Johnson factors (plus one) that federal courts consider, as set forth above. *See* Gensler Decl. at ¶¶54-63; Reirdon Fee Order at

¶6(ee). As Professor Gensler states, “[t]he best reading of Section 2023(G)(4)(e) is that it supplanted Burk for class-action common fund cases [consistent with Stowers’ discussion of legislative intent in ¶125 above], aligning Oklahoma practice with what had been prevailing Tenth Circuit practice [and still is except for its holding in *Chieftain v. Enervest* interpreting Oklahoma law]” Gensler Decl. at ¶55;

Following the enactment of Section 2023(G)(4)(e), Oklahoma district courts have applied the rule “as a flexible scheme that is applied differently based on whether the case involves a common fund recovery or statutory fee-shifting.” *Id.* at ¶56; Reiridon Fee Order at ¶6(ff). For example, in *Fitzgerald Farms*, Judge Parsley applied the Section 2023(G)(4)(e) factors in approving a 40% fee but held that, in common fund cases, the primary factor is the percentage of recovery. 2015 WL 5794008, at *2 [Supporting Fee Orders, Exhibit 31] (“[W]here, as here, the legal representation is undertaken on a contingent fee basis and that representation results in a common fund recovery for the benefit of a class, Oklahoma applies a percentage analysis.”); Gensler Decl. at ¶56; Reiridon Fee Order at ¶6(ff). Even more recently, in *Bank of America, N.A. v. El Paso Natural Gas Co.*, No. CJ-2004-45 (Okla. Dist. Ct. Washita Cty. Aug. 30, 2017), Judge Kelly explained the lodestar method does not apply in contingent-fee common-fund cases, and approved a 40% award based on all of the Section 2023(G)(4)(e) factors, but primarily the percentage of recovery. *Id.* at 8 (“When the legal representation is undertaken on a contingent fee basis, and that representation results in a common fund recovery for the benefit of a class, Oklahoma law allows a percentage analysis to determine an appropriate fee.”); Gensler Decl. at ¶57; Reiridon Fee Order at ¶6(ff);

However, I do not have to decide what role a lodestar calculation should play in the fee analysis here because, as Professor Gensler opines, I find that “the fee award in this case is reasonable whether lodestar plays no role, whether it serves as a type of cross-check, or whether it serves as a baseline subject to a contingency-fee common-fund multiplier.” Gensler Decl. at ¶58; Reiridon Fee Order at ¶6(gg). [Emphasis added.]

Chieftain (Supporting Fee Orders, Exhibit 26) at ¶6(ee-gg).

128. The Oklahoma Supreme Court has limited the application of *Burk* when either a contract or statute controls the determination of a reasonable fee (in this case, we have both):

We agree that generally the correct procedure for calculating a reasonable fee is to: 1) determine the compensation based on an

*hourly rate; and 2) to enhance the fee by adding an amount through application of the Burk factors. Nevertheless, **Burk applies in determining a reasonable attorney's fee in absence of a contract or statute.** Here, there is a contract entered between the owners and their attorneys settling a definite amount - determinable through calculating the hours worked multiplied by the hourly rate of \$125.00 - as the owners' fee obligation. Additionally, there is statutory language limiting recovery of attorney fees to those "actually incurred." [Emphasis added.]*

State ex rel. Dept. of Transp. v. Norman Indus. Development Corp., 2001 OK 72, ¶8.

129. Whether the Court utilizes the Lodestar approach in the first instance to determine a reasonable fee, or if the Court follows the 12 O.S. §2023(G) and determines a reasonable fee based upon analyzing the factors set forth in said statute, the result will be the same. Many courts utilize the Lodestar calculation as a cross-check to the reasonableness of the fee calculated using the Percentage of Fund method. In this case, the Lodestar fee (before enhancement) would be \$6,288,831 as of May 10, 2018. The requested 40% contingent fee requested for Time Period 1 is \$19,920,000 (\$49.8 million X 40%). **The resulting Lodestar enhancement multiplier in this case would be 3.17.** The Lodestar enhancement multipliers awarded in other Oklahoma oil and gas class actions (reported in 20 of the cases) set forth on Exhibit "A" (COSMO's Class Action Tracking Report) range from 1.31 to 10.00 (**the weighted average Lodestar enhancement multiplier for the reported 20 cases is 4.02.**). Whichever method utilized, Percentage of Funds or Lodestar, the result is the same; Class Counsel's requested fee is fair and reasonable.

EXPENSES:

130. The costs and expenses Class Counsel advanced on behalf of the Settlement Class were reasonable and necessary and were critical to the prosecution of this Litigation. These costs were expended over the course of the Litigation. Class Counsel has been without the use of these funds for several years and risked loss of the funds had the Litigation not been successful. Class Counsel's actual out-of-pocket expenses as of May 29, 2018 for which they are seeking

reimbursement are **\$381,408.03** (see Exhibit “D” attached hereto):

Category		Total Litigation Expenses
Filing Fees:		
Blaine County	\$560.00	
Oklahoma Supreme Ct	\$100.00	
*Total Filing Fees		\$660.00
Experts:		
Barbara Ley	\$142,599.23	
Bill Shapard	\$16,790.00	
Allyson Shortle	\$2,400.00	
Dan Reineke	\$1,237.50	
*Total Experts		\$163,026.73
Data Management:		
Convergence/TR Legal	\$74,402.90	
*Total Data Management		\$74,402.90
Mediation:		
Layn Phiilps	\$41,161.93	
*Total Mediation		\$41,161.93
Transcripts & Depositions:		
Hearing Transacriots	\$1,839.38	
Deposition Transacripts	\$25,224.38	
*Total Transcripts & Depositions:		\$27,063.76
Travel:		
Mileage & Parking	\$3,991.97	
Air	\$400.00	
Lodgings	\$1,613.48	
Meals	\$210.78	
*Total Travel		\$6,216.23
Notice:		
Publication	\$633.41	
KCC	\$58,671.00	
*Total Notice		\$59,304.41
Other Expenses:		
Conference Calls	\$218.20	
Copy Expense	\$1,838.56	
On-Line Legal Research	\$5,899.18	
Postage	\$610.90	
Caywood Expenses	\$1,005.23	
*Other Expenses		\$9,572.07
***Total Expenses		\$381,408.03

131. In addition to these expenses, Class Counsel expects to incur future expenses related to approval of the Settlement and Administrative Expenses. The Notice of Class Action Settlement mailed to the Class Members provided:

Class Counsel have filed a motion for: . . . (c) expert and consultant fees, litigation expenses and Administrative Expenses, including the fees and expenses of the Settlement Administrator, in **an amount not to exceed \$1,000,000.00**. [Emphasis added.]

No objections to Class Counsel’s request for reimbursement of these expenses (or creating a reserve for these future expenditures) have been received. However, in view of the relative low out-of-pocket expenses expended thus far by Class Counsel, Class Counsel believe the reserve for future Administrative Expenses can be reduced by \$250,000.00 such that the total request would be reduced from \$1,000,000 to \$750,000.00. Thus, after deducting the current out-of-pocket expenses of \$381,408.03, **Class Counsel is requesting the Court approve a reserve for future Administrative Expenses (“Administrative Expense Reserve”) in the amount of \$368,591.97 (\$750,000.00 - \$381,408.03).**

132. Accordingly, Class Counsel is requesting that the Court authorize the payment of \$750,000.00 from the Common Fund to the “Burns & Stowers, P.C. IOLTA Client Trust Account” from which Class Counsel may immediately withdraw \$381,408.03 as reimbursement of current out-of-pocket expenses. Class Counsel further request authority from the Court to make withdrawals from the Administrative Expense Reserve for reimbursement of future Administrative Expenses, including fees of the Settlement Administrator and other experts, as they are incurred. At the conclusion of the administration of the Settlement, Class Counsel would then provide an accounting to the Court of all reimbursements withdrawn from the Administrative Expense Reserve. To the extent any of the Administrative Expense Reserve remained unused, it would be treated as residual settlement funds, subject to further order of the Court as to its use and/or

distribution.

Class Counsel Request A Case Contribution Award for the Class Representatives

133. **The Strack Trusts:** From inception of this Litigation until following the certification hearing, Billy Joe Strack was the Trustee of the Patricia Ann Strack Revocable Trust dtd 2/15/99 and The Billy Joe Strack Revocable Trust dtd 2/15/99 (hereafter “Strack Trusts”). Bill Strack passed away on October 22, 2015. Prior to his death, on September 30, 2015, Bill Strack appointed Mark Stephen Strack to serve as Co-Trustee (and upon Bill Strack’s death, as Sole Trustee) of the Strack Trusts. Accordingly, Mark Stephen Strack was substituted for Billy Joe Strack, as the Sole Trustee for the Strack Trusts in this Litigation.

134. **The Ariola Trusts:** From inception of this Litigation until her death, Hazel Ariola was the Trustee of the Hazel Ariola Living Trust and the Paul Ariola Living Trust (hereafter “Ariola Trusts”). Hazel Ariola passed away on May 2, 2013. As reflected in the Memoranda of Trusts, upon the death of Hazel Ariola, and pursuant to the terms of the Ariola Trusts, Daniela A. Renner became the Sole Successor Trustee of said Trusts. Accordingly, Daniela (“Dee”) A. Renner was substituted for Hazel Ariola, as the Sole Trustee for the Ariola Trusts in this Litigation. (Collectively, the Strack Trusts and Ariola Trusts are referred to as the “Trusts”).

135. The Class Representative Trusts and their Trustees have been dedicated to this Litigation at all times. Again, this Litigation has been hard fought for over seven and one-half (7 1/2) years and one-half years. The Class Representatives expended extensive time prosecuting this Litigation, from meetings and telephone conferences with Class Counsel, conducting field investigations and interviewing witnesses, attending the formal mediation sessions, providing and reviewing documents, answering interrogatories, preparing for and giving their depositions, preparing affidavits, preparing for testimony at the certification hearing, attending hearings and the certification hearing, reviewing pleadings and appellate briefs, reviewing and evaluating

damage models and risk analysis, participating in the strategic decision making for the Litigation, and participating in the settlement negotiation process.

136. In Class Counsel's opinion and experience, the Class Representatives fully understand their duties as named plaintiffs and class representatives, and at all times have been, and continue to be, fully committed to this Litigation for the benefit of the Class.

137. Class Representatives pursued their claims vigorously in the face of strong and dedicated opposition.

138. Class Representatives would not agree to settle this Litigation until they were sure the Settlement Class would achieve a result they believe to be not only fair and reasonable, but truly a meaningful recovery for the Settlement Class, including modifying Continental's royalty payment practices on a go-forward basis (*i.e.*, during the Future Production Period); all in the face of the very real risk of receiving nothing from Continental.

139. Moreover, Class Representatives did not merely approve the Original Petition, and later the Amended Petition, and then have little or no involvement. Rather, Class Representatives have actively and effectively fulfilled their obligations as representatives of the Settlement Class, complying with all reasonable demands placed upon them during the prosecution and settlement of this Litigation. Indeed, Class Representatives have contributed significantly to the prosecution and resolution of this case and have dedicated hundreds of hours toward assisting in the successful prosecution of this Litigation. At all times, Class Representatives acted in the best interests of the Settlement Class. A good example is the Class Representative's insistence that the settlement contain future provisions requiring that in the absence of express language in leases allowing deductions for Gathering Charges, that Continental be prohibited from deducting Gathering Charges in the Future Period. Class Representatives' will not likely benefit from this provision

inasmuch as most of their old lease have expired and any new leases entered into already contain Express NO Deduction clauses which prohibited deductions for Gathering Charges; however, Class Representatives' felt obligated to resolve this Litigation in a manner that would best benefit the entire Class.

140. As discussed above, the risk of recovering nothing in this case was very real. In cases alleging violations of the Production Revenue Standards Act, there is always a real and substantial risk that the losing party will be required to pay the attorneys' fees and litigation costs to the prevailing party. Although Continental's fees and litigation costs are unknown to Class Counsel, it clearly is a figure that was many millions of dollars. This risk alone justifies the Case Contribution Award to Class Representatives requested herein.

141. Analysis of COSMO's Class Action Tracking Report (Exhibit "A" attached hereto), reveals that in **50 of the 56 (89.2%) of the reported cases, the trial court awarded a Class Representative Fee or Case Contribution Fee.** The range of the award is from a low of 0.12% to a high of 6.4% of the Common Fund (converted to dollars, a fee ranging from \$5,000 to \$890,792), with the **weighted average Case Contribution Fee being 0.6% of the Common Fund.** In this case, Class Counsel is requesting a Class Representative fee or Case Contribution Award in the amount of \$400,000 (to be divided between the 4 Plaintiff Trusts). Assuming the Time Period 2 Common Fund is ultimately \$7,500,000, **the requested award would be 0.7% (\$400,000/\$57,300,000) of the Time Period 1 and Time Period 2 Common Funds.** In view of the additional benefits conferred upon the Class during the Future Production Period, and the very real risk of substantial monetary loss, a Case Contribution Award to the Class Representatives slightly above the weighted average award is very justifiable and reasonable.

142. Class Representatives have not been compensated for their efforts in representing

the Settlement Class. The Notice stated Class Representative will seek a Case Contribution Award of \$100,000 to each of the four (4) Plaintiff trusts (*i.e.*, a total award of \$400,000) as compensation for their time and effort in this Action. **We have received only two (2) purported objections to the request to award the Class Representatives a Case Contribution Award:**

1. Daniel McClure – Mr. McClure is a class action defense attorney; *see* pending Motion Confirming Daniel M. McClure to be Excluded from the Settlement Class and Motion to Strike “Objection to Motion for Attorneys’ Fees and Class Representatives’ Award” by Non-Class Member, Daniel M. McClure; and
2. Kelly McClure Callant – Ms. Callant is the sister of Daniel McClure. As reflected in the Report of Class Member Filings (Opt-Outs & Objections), Ms. Callant’s “objection” does not fully comply with the requirements set forth in the Notice. The Court should therefore consider Ms. Callant’s filing as “comment” rather than an “objection”.

Thus, less than 0.006%, or 1 out of every 16,945 possible Class Members, (2 “objections” / 33,890 Notices mailed out) “objected” to the requested Case Contribution Award. Put another way, **99.9999% the possible Class Members raised NO objection to the requested Case Contribution Award.** *See* Report of Class Member Filings (Opt-Outs & Objections) filed simultaneously herewith.

143. There is no *quid pro quo* or any type of agreement whatsoever between Class Representatives and Class Counsel that one would support any request made by the other. It is the opinion of Class Counsel that Class Representative Trusts should each be awarded \$100,000 (*i.e.*, a total of \$400,000) out of the Gross Settlement Fund. Such amount is more than reasonable based on the time, effort, risk, and burden Class Representatives undertook, and the substantial recovery obtained for the Settlement Class.

As officers of the Court, we declare under penalty of perjury, that the foregoing is true and correct to the best of our knowledge and belief.

Dated: June 1, 2018



Douglas E. Burns
Burns & Stowers, PC



Terry L. Stowers
Burns & Stowers, PC

EXHIBIT A

Summary of 20+ Years of Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)

Case Identification					The "Common Fund" and Class Recovery			Percentage of "Common Fund" (Cash Only) Awarded					
Ex #	Case Name	Judge	Case No. & Court	Year Resolved	"Common Fund" (Cash Portion only)	Other Benefits to the Class	Total Recovery for the Class	Attorneys' Fee	Lode Star Multiplier (if known)	Litigation Costs	Admin Costs from Fund	Class Rep. Fee	Total Award of Fees & Costs
Pending	<i>Cecil v BP America</i>	Ronald White	CIV-16-410-W USED OK	2018	\$147,000,000	\$65,000,000	\$212,000,000	TBD	TBD	TBD	TBD	TBD	TBD
Pending	<i>Strack v Continental</i>	Dennis Hladik	CJ-2010-75 Blaine Co	2018	\$49,800,000	\$57,500,000	\$107,300,000	TBD	TBD	TBD	TBD	TBD	TBD
32	<i>Chieftain v EnerVest</i>	Timothy DeGiusti	CIV-11-177-D USWD OK	2015	\$52,000,000	\$2,965,000	\$54,965,000	Pending on Remand	Pending on Remand	Pending on Remand	Pending on Remand	Pending on Remand	Pending on Remand
54	<i>Tatum v. Devon</i>	Carl Gibson	CJ-2010-77 Nowata Co	2013	\$3,800,000	N/A	\$3,800,000	45.00%	Unreported	0.80%	Undetermined	0.13%	45.93%
53	<i>Gregory v El Paso</i>	Richard B. Darby	CJ-2000-92 Wachita Co	2001	\$629,000	N/A	\$629,000	45.00%	Unreported	4.77%	Undetermined	5.00%	54.80%
28	<i>Bank of America v El Paso</i>	Christopher Kelly	CJ-2004-45 Washita Co	2017	\$115,000,000	\$12,662,100	\$127,662,100	44.39%	3.12	1.26%	0.58%	0.26%	46.50%
8	<i>Kouns v. ConocoPhillips</i>	Ray Dean Linder	CJ-1998-61 Dewey Co	2004	\$4,300,000	\$1,086,000	\$5,386,000	42.56%	Unreported	3.02%	Undetermined	0.47%	46.04%
47	<i>Naylor Farms v. QEP</i>	David Russell	CIV-08-668-R USWD OK	2012	\$1,845,000	N/A	\$1,845,000	41.73%	Unreported	10.84%	1.36%	2.71%	56.64%
36	<i>Chieftain v. QEP</i>	David Russell	CIV-09-07-R	2013	\$115,000,000	\$40,000,000	\$155,000,000	40.43%	Unreported	0.92%	Undetermined	0.67%	42.03%
31	<i>Fitzgerald v Chesapeake</i>	Jon Parsley	CJ-2010-38 Beaver CO	2015	\$119,000,000	Admin Exp to be paid by CHK	\$119,000,000	40.00%	4.76	0.26%	0.00%	0.30%	40.56%
11	<i>Mayo v. Kaiser-Francis</i>	Richard VanDyck	CJ-1993-348 Grady Co	2004	\$5,000,000	N/A	\$5,000,000	40.00%	Unreported	0.60%	Undetermined	0.00%	40.60%
22	<i>Lobo v. BP (WI)</i>	Gerald Riffe	CJ.19-97-72 Beaver Co	2005	\$150,000,000	N/A	\$150,000,000	40.00%	8.70	0.41%	Undetermined	0.50%	40.91%
24	<i>Mitchusson v. Exco</i>	Wyatt Hill	CJ-2010-32 Caddo, Co	2012	\$23,500,000	N/A	\$23,500,000	40.00%	6.30	0.41%	Undetermined	0.64%	41.04%
5	<i>Robertson/Taylor v. Sanguine</i>	Richard VanDyck	CJ-2002-150 Grady Co	2003	\$13,250,606	N/A	\$13,250,606	40.00%	10.00	0.08%	Undetermined	1.00%	41.08%
2	<i>Continental v. Conoco (WI)</i>	Richard Perry	CJ-2000-356 Garfield Co	2005	\$23,000,000	N/A	\$23,000,000	40.00%	3.65	0.74%	Undetermined	0.50%	41.24%
1	<i>Simmons v. Anadarko</i>	Wyatt Hill	CJ-2004-57 Caddo Co	2008	\$155,000,000	N/A	\$155,000,000	40.00%	4.20	0.53%	0.65%	0.50%	41.67%
34	<i>Drummond v Range</i>	Richard Van Dyck	CJ-2010-510 Grady Co	2013	\$87,000,000	N/A	\$87,000,000	40.00%	Unreported	0.74%	Undetermined	1.00%	41.74%
23	<i>Sacket v. Great Plains</i>	Ray Dean Linder	CJ-2002-70 Woods Co	2009	\$25,000,000	N/A	\$25,000,000	40.00%	3.20	1.30%	Undetermined	0.70%	42.00%
35	<i>Cecil v Ward</i>	Wyatt Hill	CJ-2010-462 Grady Co	2014	\$10,000,000	N/A	\$10,000,000	40.00%	Unreported	1.30%	Undetermined	1.00%	42.30%
37	<i>Cornett v Samson</i>	Ray Dean Linder	CJ-2009-81 Dewey Co	2013	\$15,200,000	1/2 of Admin paid by Samson	\$15,200,000	40.00%	Unreported	1.78%	1/2 of Admin Costs	1.00%	42.78%
27	<i>Reirdon v XTO</i>	Kimberly West	CIV-16-87-KW USED OK	2018	\$20,000,000	\$20,750,000	\$40,750,000	40.00%	2.55	1.12%	1.75%	0.15%	43.02%
38	<i>DSR Investments v Devon</i>	Ray Dean Linder	CJ-2011-12 Dewey Co	2013	\$11,000,000	\$40,000	\$11,040,000	40.00%	Unreported	2.12%	0.00%	1.00%	43.12%
21	<i>Laverty v. Newfield</i>	Greg Zigler	CJ-2002-101 Beaver Co	2007	\$17,250,000	\$250,000	\$17,500,000	40.00%	4.22	2.92%	Undetermined	0.40%	43.32%
25	<i>Brown v. Citation</i>	Richard Van Dyck	CJ-2004-217 Caddo Co	2009	\$5,250,000	N/A	\$5,250,000	40.00%	1.31	2.44%	Undetermined	1.00%	43.44%

Summary of 20+ Years of Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)

Case Identification					The "Common Fund" and Class Recovery			Percentage of "Common Fund" (Cash Only) Awarded					
Ex #	Case Name	Judge	Case No. & Court	Year Resolved	"Common Fund" (Cash Portion only)	Other Benefits to the Class	Total Recovery for the Class	Attorneys' Fee	Lode Star Multiplier (if known)	Litigation Costs	Admin Costs from Fund	Class Rep. Fee	Total Award of Fees & Costs
9	<i>McIntouch v. Questar</i>	<i>N. Vinson Barefoot</i>	CJ-2002-22 Major Co	2002	\$1,500,000	N/A	\$1,500,000	40.00%	Unreported	3.20%	Undetermined	0.33%	43.54%
6	<i>Rudman v Texaco</i>	<i>William C. Hetherington</i>	CJ-1997-1-E Stephens Co	2001	\$25,000,000	N/A	\$25,000,000	40.00%	Unreported	3.27%	Undetermined	1.00%	44.27%
26	<i>Chieftain v XTO</i>	<i>Kimberly West</i>	CIV-11-29-KW USED OK	2018	\$80,000,000	\$134,750,000	\$214,750,000	40.00%	2.58	2.07%	1.99%	0.28%	44.34%
*See Court Clerk	<i>Holcomb v Chesapeake</i>	<i>Doug Haught</i>	CJ-2011-6 Roger Mills Co	2013	\$2,000,000	N/A	\$2,000,000	40.00%	Unreported	3.90%	Undetermined	0.50%	44.40%
49	<i>Krug v. Helmerich & Payne</i>	<i>Jefferson Sellers</i>	CJ-98-06012 Tulsa Co	2014	\$15,760,949	N/A	\$15,760,949	40.00%	Unreported	3.92%	Undetermined	1.00%	44.92%
41	<i>Velma v. ChevronTexaco</i>	<i>Allan McCall</i>	CJ-2005-496 Stephens Co	2007	\$27,000,000	N/A	\$27,000,000	40.00%	2.49	4.95%	Undetermined	1.00%	45.95%
40	<i>Taylor v. Texaco</i>	<i>Gerald Riffe</i>	CJ-2002-104 Texas Co	2011	12,000,000	Admin Exp to be paid by Texaco	12,000,000	40.00%	1.76	5.00%	0.00%	1.00%	46.00%
30	<i>Chieftain v Laredo</i>	<i>Timothy DeGiusti</i>	CIV-12-1319-D USWD OK	2015	\$6,651,998	Undetermined	\$6,651,998	40.00%	Unreported	5.26%	0.00%	1.00%	46.26%
29	<i>Mahaffey v Marathon</i>	<i>Ken Graham</i>	CJ-2004-581E Stephens Co	2016	\$18,300,000	Undetermined	\$18,300,000	40.00%	Unreported	6.70%	1.64%	0.22%	48.56%
39	<i>Webber v. Mobil</i>	<i>F. Pat Versteg</i>	CJ-2001-53 Custer Co	2012	\$30,000,000	\$750,000	\$30,750,000	39.12%	Unreported	2.21%	0.00%	0.50%	41.83%
44	<i>Hill v. Kaiser-Francis</i>	<i>David Russell</i>	CIV-09-07-R USWD OK	2013	\$37,000,000	\$3,091,391	\$40,091,391	37.92%	Unreported	2.69%	0.35%	0.54%	41.50%
3	<i>Brumley v. ConocoPhillips</i>	<i>Greg Zigler</i>	CJ-2001-5 Texas Co	2005	\$29,261,379	\$7,590,000	\$36,851,379	37.91%	3.85	3.12%	Undetermined	1.13%	42.16%
20	<i>Bank of Amer. v Burlington</i>	<i>Ellis Cabaniss</i>	CJ-1997-68 Washita Co	2006	\$66,000,000	N/A	\$66,000,000	37.00%	Unreported	2.56%	0.63%	0.34%	40.53%
42	<i>Fankhouser v. XTO</i>	<i>Tim Leonard</i>	CIV-07-798-L USWD OK	2012	\$37,000,000	\$5,000,000	\$42,000,000	35.53%	Unreported	0.81%	Undetermined	0.27%	36.61%
7	<i>Fazekas v. Arco</i>	<i>Bill Welch</i>	C-1998-65 Latimer Co	2002	\$6,250,000	N/A	\$6,250,000	35.00%	Unreported	10.00%	Included in Litigation Costs	6.40%	51.40%
12	<i>Velma-Alma v. Chesapeake</i>	<i>Joe H. Enos</i>	CJ-2002-331-E Stephens Co	2004	\$10,500,000	\$6,600,000	\$17,100,000	34.95%	3.25	3.05%	Undetermined	2.00%	40.00%
51	<i>Booth v. Cross Timbers</i>	<i>Ray Dean Linder</i>	CJ-1998-16 Dewey Co	2003	\$2,500,000	N/A	\$2,500,000	33.42%	Unreported	1.63%	Undetermined	0.36%	35.41%
45	<i>Hitch v. Cimarex</i>	<i>Lee West</i>	CIV-11-13-W USWD OK	2013	\$16,400,000	N/A	\$16,400,000	33.33%	Unreported	0.40%	Undetermined	1.00%	34.74%
56	<i>Kouns v. Louis Dreyfus</i>	<i>Robert Collier</i>	CJ-98-20 Dewey Co	2003	\$2,778,125	N/A	\$2,778,125	33.33%	Unreported	1.30%	Undetermined	0.43%	35.06%
43	<i>Hill v. Marathon</i>	<i>David Russell</i>	CIV-08-37-R USWD OK	2012	\$40,000,000	\$7,409,763	\$47,409,763	33.33%	Unreported	1.02%	Undetermined	0.25%	34.60%
14	<i>Barnaby v. Marathon</i>	<i>Bill Welch</i>	C-1996-40 Latimer Co	2003	\$3,645,241	N/A	\$3,645,241	33.33%	Unreported	1.85%	Undetermined	0.33%	35.51%
55	<i>Lawrence v. Cimarex</i>	<i>Richard Van Dyck</i>	CJ-2004-391 Caddo Co	2006	\$6,475,000	N/A	\$6,475,000	33.33%	Unreported	2.11%	Undetermined	0.39%	35.83%
19	<i>Duke v. Apache</i>	<i>Joe Jackson</i>	CJ-1994-32 Dewey Co	2002	\$1,967,500	N/A	\$1,967,500	33.33%	Unreported	3.43%	0.26%	0.00%	37.02%
13	<i>Shockey v. Chevron</i>	<i>Ellis Cabaniss</i>	CJ-2001-7 Washita Co	2005	\$60,000,000	N/A	\$60,000,000	33.33%	4.66	3.19%	0.83%	0.42%	37.77%

Summary of 20+ Years of Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)

Case Identification					The "Common Fund" and Class Recovery			Percentage of "Common Fund" (Cash Only) Awarded					
Ex #	Case Name	Judge	Case No. & Court	Year Resolved	"Common Fund" (Cash Portion only)	Other Benefits to the Class	Total Recovery for the Class	Attorneys' Fee	Lode Star Multiplier (if known)	Litigation Costs	Admin Costs from Fund	Class Rep. Fee	Total Award of Fees & Costs
18	<i>Kouns v. Kaiser-Francis</i>	Ray Dean Linder	CJ-1998-45 Dewey Co	2003	\$3,100,000	N/A	\$3,100,000	33.33%	Unreported	1.61%	8.06%	0.39%	43.39%
10	<i>Black Hawk v. Exxon (WI&RO)</i>	Deborah C. Shallcross	CJ-93-02226 Tulsa Co	1999	\$9,000,000	N/A	\$9,000,000	31.80%	Unreported	1.82%	3.30%	3.72%	40.65%
17	<i>Greghol v. Barrett</i>	Edward Cunningham	CJ-1996-166-1 Canadian Co	1996	\$180,000	N/A	\$180,000	30.00%	Unreported	Undetermined	Undetermined	0.00%	30.00%
15	<i>Duke v. Samson</i>	Robert Collier	CJ-1994-31 Dewey Co	1996	\$1,454,375	N/A	\$1,454,375	30.00%	Unreported	0.21%	Undetermined	0.00%	30.21%
4	<i>Bridenstine v. Kaiser-Fr.</i>	Ronald Kincannon	CJ-2000-1 Texas Co	2004	\$109,974,437	Undetermined	\$109,974,437	30.00%	5.25	2.63%	0.45%	0.81%	33.89%
16	<i>Cactus Petrol. V. Chesapeake (WI)</i>	Greg Zigler	CJ-2004-4 Harper Co	2005	\$6,500,000	N/A	\$6,500,000	26.36%	1.70	3.29%	Undetermined	0.35%	30.00%
33	<i>Adkisson v Koch</i>	John Scaggs	CJ-1999-192 Seminole Co	2009	\$30,000,000	N/A	\$30,000,000	25.07%	5.15	0.35%	Undetermined	0.21%	25.63%
47	<i>In re Lease Oil Antitrust Lit</i>	Judge Jack	186 FRD 403 USSD TX	1999	\$11,250,000	N/A	\$11,250,000	25.00%	Unreported	3.30%	Undetermined	0.12%	28.42%
48	<i>Stamp Bro v Continental</i>	Joe Heaton	CIV-14-182-HE	2017	\$6,650,000	Undetermined	\$6,650,000	21.35%	Unreported	1.21%	0.00%	0.75%	23.31%
50	<i>Barnaby v. Ocean Energy</i>	N.Vinson Barefoot	CJ-1996-73 Dewey Co	2001	\$2,875,000	N/A	\$2,875,000	20.87%	Unreported	2.61%	Undetermined	0.00%	23.48%
52	<i>Dunstan v. Sonat</i>	Robert Collier	CJ-1996-12 Dewey Co	1998	\$1,572,500	\$325,000	\$1,897,500	20.67%	Unreported	Unreported	Undetermined	0.00%	20.67%
Total of All Reported O&G Class Actions				1996-2018	\$1,889,371,110	\$365,769,254	\$2,255,140,364						

Range of Attorney Fee Awards in Oklahoma O&G Class Actions as a Percentage of the "Common Fund" (Cash Only)	# of Cases	"Common Fund" (Cash Portion only)	Wgt Avg % of Total Reported Cash Common Funds	Total Recovery for the Class	Wgt Avg Atty Fee
Attorneys' Fee ≥ 40%	30	\$1,108,237,553	67.55%	\$1,317,775,653	40.53%
35% ≤ Attorneys' Fee < 40%	6	\$205,511,379	12.53%	\$221,942,770	37.28%
30% ≤ Attorneys' Fee < 35%	14	\$267,974,678	16.33%	\$281,984,441	31.96%
Attorneys' Fee < 30%	6	\$58,847,500	3.59%	\$59,172,500	24.45%
Total Completed O&G Class Actions	56	\$1,640,571,110	100.00%	\$1,880,875,364	38.15%
Additional O&G Class Actions Pending Final Approval	3	\$248,800,000		\$374,265,000	
Total of All Reported O&G Class Actions	59	\$1,889,371,110		\$2,255,140,364	

Attorneys' Fee Awards by Wgt Avg of Common Fund (cash portion of recovery)

Over 2/3rds (67.55%) of All Common Funds Recovered (i.e., \$1,317,775,653) were assessed Attorneys' Fees at a Wgt Avg of 40.53%

Royalty Owner vs. Working Interest Owner Class Actions	# of Cases	"Common Fund" (Cash Portion only)	Other Benefits to the Class	Total Recovery for the Class
Royalty Owner Class Actions	55.15	\$1,702,221,110	\$365,769,254	\$2,067,990,364
Working Interest Owner Class Actions	3.85	\$187,150,000	\$0	\$187,150,000
Total of All Reported O&G Class Actions	59	\$1,889,371,110	\$365,769,254	\$2,255,140,364

EXHIBIT B

Recent Reported Lodestar Rates in Oil and Gas Class Actions in Oklahoma (Both State and Federal Courts)

Updated: 5/26/2018

Recap of Recently Reported (2017-2018) Hourly Rates Approved in Oil & Gas Royalty Accounting Class Actions in Oklahoma				
Number of Law Firms	Number of Attorneys	Category	Hourly Rate Range	Number of Case References
7	14	Senior Attorney	\$550 to \$900	2 (See Below)
7	20	Attorney	\$350 to \$700	2 (See Below)
4	16	Paralegal	\$90 to \$300	2 (See Below)

Detail of Reported Hourly Rates Reported and Approved in Recent Oil & Gas Royalty Accounting Class Actions				
Law Firm	Attorney	Category	Hourly Rate	Case Reference
Barnes & Lewis (OK)	Robert Barnes	Senior Attorney	\$900	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (TX)	David E. Sharp	Senior Attorney	\$900	<i>Chieftain v XTO</i> (2018 Ex 26)
Barnes & Lewis (OK)	Patranell Lewis	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Lawrence R. Murphy, Jr., PC (OK)	Larry Murphy	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Bradley Beckworth	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Jeffrey Angelovich	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Whitten Burrage (OK)	Michael Burrage	Senior Attorney	\$875	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Rex A. Sharp	Senior Attorney	\$850	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Joseph R. Gunderson	Senior Attorney	\$850	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Barbara Frankland	Senior Attorney	\$725	<i>Chieftain v XTO</i> (2018 Ex 26)
Brickell & Associates PC (OK)	Bradley D. Brickell	Senior Attorney	\$650	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
McNamara, Inbody & Parrish	Stephen McNamara	Senior Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
McNamara, Inbody & Parrish	Brian Inbody	Senior Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
McNamara, Inbody & Parrish	Gil Parrish	Senior Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Gunderson Sharp, LLP (KS)	Ryan C. Hudson	Attorney	\$700	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Larkin Walsh	Attorney	\$700	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Partner	Attorney	\$700	<i>Chieftain v XTO</i> (2018 Ex 26)
Benson Law Firm (OK)	Loyd L. Benson	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Branch Law Firm (NM)	Cindy Zedalis	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Branch Law Firm (NM)	Turner Branch	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Branch Law Firm (NM)	Margaret Branch	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Law Office of Brian K Branch (NM)	Brian Branch	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Law Office of Karen Aubrey (NM)	Karen Aubrey	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Stan A Koop Lawyer (OK)	Stan Koop	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Stephen Beam, P.C. (OK)	Stephen Beam	Attorney	\$550	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Stacey Smith	Attorney	\$500	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Christine Fritz	Attorney	\$500	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Michael Kelly	Attorney	\$500	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Brickell & Associates PC (OK)	Timothy Prentice	Attorney	\$500	<i>Bank of Am v EIPaso</i> (2017 Ex 28)
Nix, Patterson & Roach (TX)	Associates– 6-plus years	Attorney	\$500	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Scott Goodger	Attorney	\$475	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Associates– 4-6 years	Attorney	\$450	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Associates– 2-4 years	Attorney	\$400	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Associates– 1st year	Attorney	\$350	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Project Associate (Manager)	Paralegal	\$300	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Project Associate	Paralegal	\$275	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Senior Paralegal	Paralegal	\$275	<i>Chieftain v XTO</i> (2018 Ex 26)
Nix, Patterson & Roach (TX)	Paralegal	Paralegal	\$250	<i>Chieftain v XTO</i> (2018 Ex 26)
Barnes & Lewis (OK)	Legal Assistant	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Marsha Duea	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Vanessa Noah	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Sheri Squaires	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Debbie Schick	Paralegal	\$200	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Nicolle Phifer	Paralegal	\$175	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Alex Sharp	Paralegal	\$175	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Cindy Hartig	Paralegal	\$175	<i>Chieftain v XTO</i> (2018 Ex 26)
Gunderson Sharp, LLP (KS)	Renee Ballard	Paralegal	\$150	<i>Chieftain v XTO</i> (2018 Ex 26)
Bank of America v EIPaso (OK)	3 Paralegals	Paralegal	\$90	<i>Bank of Am v EIPaso</i> (2017 Ex 28)



EXHIBIT C

Strack v Continental
Summary of Class Counsel's Detailed Time Records

Firm	Attorney or Paralegal	Title	Total Hours Expended	Hourly Rate	"Lodestar" (Hours X Rate)	Range of Rates within the "Legal Community"
Burns & Stowers	Douglas E. Burns	Senior Attorney	2,751.85	\$875	\$2,407,868.75	\$550-\$900
Burns & Stowers	Terry L. Stowers	Senior Attorney	4,029.28	\$875	\$3,525,620.00	\$550-\$900
Park, Nelson, Caywood, Jones	Kerry Caywood	Attorney	212.50	\$500	\$106,250.00	\$350-\$700
Park, Nelson, Caywood, Jones	Angela Caywood Jones	Attorney	19.30	\$500	\$9,650.00	\$350-\$700
F. Douglas Shirley	F. Douglas Shirley	Attorney			\$725.00	
Burns & Stowers	Pamela Moulton	Paralegal	652.50	\$275	\$179,437.50	\$90-\$350
Burns & Stowers	Tammie Wheeler	Paralegal	296.40	\$200	\$59,280.00	\$90-\$350
*Totals			7,961.83		\$6,288,831.25	Cross-check "Lodestar"

Requested Fee for Time Period 1: \$19,920,000 (\$49,800,000 x 40%)
Cross-check "Lodestar" Multiplier 3.17

EXHIBIT D

Strack v Continental
Summary of Class Counsel's Litigation Expenses
(as of 5/29/2018)

Category		Total Litigation Expenses
Filing Fees:		
Blaine County	\$560.00	
Oklahoma Supreme Ct	\$100.00	
*Total Filing Fees	<u> </u>	\$660.00
Experts:		
Barbara Ley	\$142,599.23	
Bill Shapard	\$16,790.00	
Allyson Shortle	\$2,400.00	
Dan Reineke	\$1,237.50	
*Total Experts	<u> </u>	\$163,026.73
Data Management:		
Convergence/TR Legal	\$74,402.90	
*Total Data Management	<u> </u>	\$74,402.90
Mediation:		
Layn Phiilps	\$41,161.93	
*Total Mediation	<u> </u>	\$41,161.93
Transcripts & Depositions:		
Hearing Transacriots	\$1,839.38	
Deposition Transacripts	\$25,224.38	
*Total Transcripts & Depositions:	<u> </u>	\$27,063.76
Travel:		
Mileage & Parking	\$3,991.97	
Air	\$400.00	
Lodgings	\$1,613.48	
Meals	\$210.78	
*Total Travel	<u> </u>	\$6,216.23
Notice:		
Publication	\$633.41	
KCC	\$58,671.00	
*Total Notice	<u> </u>	\$59,304.41
Other Expenses:		
Conference Calls	\$218.20	
Copy Expense	\$1,838.56	
On-Line Legal Research	\$5,899.18	
Postage	\$610.90	
Caywood Expenses	\$1,005.23	
*Other Expenses	<u> </u>	\$9,572.07
***Total Expenses		<u>\$381,408.03</u>