

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:	:	Chapter 11
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CHAPARRAL ENERGY, INC.,	:	Case No. 16-11144 (LSS)
	:	
Reorganized Debtor. ¹	:	Re: Docket No. 1631
	:	
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In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC., <i>et al.</i> , ²	:	Case No. 20-11947 (MFW)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Re: Docket No. 122
	:	
-----	X	Hearing Date: December 9, 2020 at 3:00 p.m.

**MOTION OF CLASS COUNSEL AND CLASS REPRESENTATIVE FOR APPROVAL
AND PAYMENT OF CLASS COUNSEL FEES AND EXPENSES, THE CLASS
REPRESENTATIVE'S CONTRIBUTION FEE, AND THE ADMINISTRATIVE
EXPENSES OF SETTLEMENT TO BE PAID FROM THE SETTLEMENT PROCEEDS**

This Motion comes before the Court pursuant to Rule 23(h) of the Federal Rules of Civil Procedure (the "Rules"), made applicable to this matter by Rules 7023 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and the Order Approving Class Action Settlement on a Preliminary Basis entered on August 27, 2020, which set a Fairness Hearing for

¹ The Reorganized Debtor in this chapter 11 case, along with the last four digits of the Reorganized Debtor's federal tax identification number, is Chaparral Energy, Inc. (0941). The Reorganized Debtor's address is 701 Cedar Lake Blvd., Oklahoma City, OK 73114.

² The Debtors in these cases, along with the last four digits (or five digits, in cases in which multiple Debtors have the same last four digits) of each Debtor's federal tax identification number, are: CEI Acquisition, L.L.C. (1817); CEI Pipeline, L.L.C. (6877); Chaparral Biofuels, L.L.C. (1066); Chaparral CO2, L.L.C. (1656); Chaparral Energy, Inc. (90941); Chaparral Energy, L.L.C. (20941); Chaparral Exploration, L.L.C. (1968); Chaparral Real Estate, L.L.C. (1655); Chaparral Resources, L.L.C. (1710); Charles Energy, L.L.C. (3750); Chestnut Energy, L.L.C. (9730); Green Country Supply, Inc. (2723); Roadrunner Drilling, L.L.C. (2399); and Trabajo Energy, L.L.C. (9753) (hereafter referred to as "Debtors"). The Debtors' address is 701 Cedar Lake Boulevard, Oklahoma City, OK 73114.



December 9, 2020 at 3:00 P.M. Eastern Time in this United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). The Court directed the Class Representative Naylor Farms, Inc. (“Class Representative”) and Settlement Class Counsel Conner L. Helms (“Class Counsel”) (collectively “Movants”) to file a motion for approval and payment of Class Counsel fees and expenses and the Class Representative’s contribution fee. [Doc. 122] Preliminary Order p. 6, ¶ 17. (“Interim Order”). Accordingly, Class Representative and Class Counsel, on behalf of the Settlement Class, by and through undersigned counsel, hereby respectfully move this Court for entry of an order approving the agreed upon amounts for attorney fees and costs to Class Counsel in the amount of \$850,000 (the “Fee Award”); and an incentive award to Class Representative in the amount of \$150,000 (the “Incentive Award”) for their time and effort in this litigation. In support of the Motion, the Movants rely upon the Declaration of Conner L. Helms attached hereto as Exhibit A (the “Helms Declaration”) and respectfully state the following:

I. PRELIMINARY STATEMENT AND SUMMARY OF MOTION

1. Movants and the Debtors recently settled highly contentious litigation in this Court regarding Movants’ ability to represent thousands of royalty owners in oil and gas wells operated by Debtors in Oklahoma, as well as the Class Proofs of Claim filed herein. After nine (9) years of litigation in multiple jurisdictions, including the U.S. District Court for the Western District of Oklahoma, appeal to the Tenth Circuit Court of Appeals, contested matters in the first bankruptcy proceedings filed by Debtors herein, an appeal to the Delaware District Court and an appeal to the Third Circuit Court of Appeals (“Third Circuit”), the parties negotiated a settlement on the eve of oral arguments before the Third Circuit. The settlement provides, among other things, for the Fee Award and Incentive Award requested and has been preliminarily approved.

2. The Fee Award easily meets the standards for “reasonableness” under the common fund doctrine and the lodestar method. As set forth in greater detail below, Class Counsel undertook significant tasks in prosecuting the Class claims in these cases and the underlying case. The Fee Award does not exceed the base lodestar fee amounts invested by Class Counsel, and as such there is no need to engage in an analysis of comparable multiples.

3. Similarly, the Incentive Award is appropriate when considering the money spent and efforts undertaken by the Class Representative, which included participation in answering discovery, document production, depositions and attending hearings, appearing before the 10th Circuit with Class Counsel for oral argument, and participating in the bankruptcy proceedings herein. The underlying litigation was filed by the Class Representative against Debtor Chaparral Energy, LLC (“Chaparral”) in 2011, alleging that Chaparral underpaid royalties to the Class in violation of Oklahoma law. As shown by the Declaration, thousands of documents and years of electronic data were reviewed, numerous depositions were taken, and thousands of hours were expended before settlement was reached with Chaparral. Movants expended large amounts of their own money in prosecuting the claims for the Settlement Class.

II. BASIS FOR RELIEF

A. STANDARD OF REVIEW

4. “In a certified class action, the court may award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h). The fee awarded must be “reasonable.” *In re AT&T Corp. Secs. Litig.*, 455 F.3d 160, 175 (3d Cir. N.J. 2006). The decision to award attorneys’ fees “is committed to the sound discretion” of the court, and should be based on “the unique contours of the case.” *See Id.*; Fed. Judicial Ctr., Manual for Complex Litig. (Fourth) § 14.121 (2004).

5. In a class action, the court follows Rule 23(h) and the “fundamental focus is the result actually achieved for class members.” *Id.* at § 21.71 (citing Fed. R. Civ. P. 23(h) committee note). The judgment on attorney’s fees and costs must describe the bases for the court’s order, including findings of fact and conclusions of law. *See id.* § 14.232; Fed. R. Civ. P. 52(a), 54(d)(2)(C), 58(a)(3)(a separate judgment for fees is not required).

B. THE CLASS COUNSEL IS ENTITLED TO FEES

6. “[A] litigant or lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). The “common fund doctrine” is an exception to the “American Rule” which provides that litigants are generally responsible for their own attorney fees. *Id.* In a “common fund” case such as this, the award of attorney fees on a percentage basis is the norm. *See, e.g., Gottlieb v. Barry*, 43 F.3d 474, 483 & n.5 (10th Cir. 1994) (citing *Useton v. Comm'l Lovelace Motor Freight, Inc.*, 9 F.3d 849 (10th Cir. 1993)); *Camden I Condo. Ass'n v. Dunkle*, 946 F.2d 768, 773 (11th Cir. 1991) (“[E]very Supreme Court case addressing the computation of a common fund fee award has determined such fees on a percentage of the fund basis.”); *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984) (“[U]nder the ‘common fund doctrine,’ ...a reasonable fee is based on a percentage of the fund bestowed upon the class.”). In *Swedish Hospital Corp. v. Shalala*, 1 F.3d 1261 (D.C. Cir. 1993), the court explained the advantages of the percentage basis at length:

[U]sing the lodestar approach in common fund cases encourages significant elements of inefficiency. First, attorneys are given incentive to spend as many hours as possible, billable to a firm's most expensive attorneys. Second, there is a strong incentive against early settlement.... [I]f a percentage-of-the-fund calculation controls, inefficiently expended hours only serve to reduce the per hour compensation of the attorney expending them.

* * * * *

Furthermore, a percentage-of-the-fund approach more accurately reflects the economics of litigation practice....Plaintiffs' litigation practice, given the

uncertainties and hazards of litigation, must necessarily be result-oriented. It matters little to the class how much the attorney spends in time or money to reach a successful result.

* * * * *

Additionally, a percentage-of-the-fund approach is less demanding of scarce judicial resources than the lodestar method.... It is much easier to calculate a percentage-of-the fund fee than to review hourly billing practices over a long, complex litigation. A related weakness in the lodestar approach is that it often results in a substantial delay in distribution of the common fund to the class....

Id. at 1268-70 (internal citations, quotations, and alterations omitted).

7. The Tenth Circuit has stated that the preferred method for awarding attorney's fees in a class action is the percentage of fund analysis. *Rosenbaum v. MacAllister*, 64 F.3d 1439, 1444 (10th Cir. 1995); *Gottlieb*, 43 F.3d at 483; *McNeely v. Nat'l Mobile Health Care, LLC* (unpub.), 2008 WL 21277124 at *16 (W.D. Okla. 2008). The practice of paying Class Counsel's fees from the common fund "rests on the perception that persons who obtain the benefit of a lawsuit without contributing to its costs are unjustly enriched at the successful litigant's expense." *Brown v. Phillips Petrol. Co.*, 838 F.2d 451, 454 (10th Cir.), *cert. denied*, 488 U.S. 822 (1988) (quoting *Boeing v. Van Gemert, supra*). Thus, the Court must "balance the interests of the beneficiaries in light of the efforts of counsel on their behalf." *Id.* at 456. To determine reasonableness, the Tenth Circuit has relied on the factors articulated in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974):

1. The time and labor involved;
2. The novelty and difficulty of the questions;
3. The skill requisite 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 involved and the results obtained;
9. The experience, reputation, and ability of the attorneys;
10. The undesirability of the case;
11. The nature and length of the professional relationship with the client; and

12. Awards in similar cases.

Gottlieb, 43 F.3d at 483; *Rosenbaum*, 64 F.3d at 1445; *Johnson*, 488 F.2d at 717-19; *see also Oliver's Sports Ctr., Inc. v. Nat'l Std. Ins. Co.*, 615 P.2d 291, 295 (Okla. 1980) (citing *State ex rel. Burk v. City of Oklahoma City*, 598 P.2d 659 (Okla. 1979)). The Tenth Circuit has expressly recognized that “rarely are all of the *Johnson* factors applicable; this is particularly so in a common fund situation.” *Useton*, 9 F.3d at 854 (quoting *Brown*, 838 F.2d at 456). Specifically, in a common fund case, the amount involved and results obtained are typically weighted more heavily than the time and labor involved. *See, e.g., Millsap v. McDonnell Douglas Corp.* (unpub.), 2003 WL 21277124 at *8 (N.D. Okla. 2003) (citing *Brown, supra*).

8. Based on these and other overlapping *Johnson* factors, discussed below, Class Counsel submit that the agreed upon attorney fee award of \$850,000.00 is imminently fair and reasonable.

9. "The first step in a percentage of the fund analysis is a determination of the value of the fund." *In re Copley Pharm., Inc.*, 1 F.Supp.2d 1407, 1412 (D. Wyo. 1998), *aff'd*, 232 F.3d 900 (10th Cir. 2000). In determining the total settlement value upon which to base a reasonable attorney fee award for Class Counsel, "[i]ncidental or non-monetary benefits conferred by the litigation are a relevant circumstance." *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1049 (9th Cir. 2002); *see also Shaw v. Toshiba Am. Info. Sys., Inc.*, 91 F.Supp.2d 942, 961 (E.D. Tex. 2000) ("The obligations imposed upon Toshiba under the terms of the proposed Settlement Agreement, even if one ignored the cash payment obligations, constitute real and quantifiable value to the class members and should be included in determining the total economic value provided to the class by virtue of the proposed Settlement Agreement."). When the settlement includes a non-monetary (or future) benefit, the Court should "make a 'reasonable estimate' of the settlement's value in order to

calculate attorneys' fees using the percentage-of-recovery method." *In re Prudential Ins. Co. Am. Sales Prac. Litig.*, 148 F.3d 283, 334 (3d Cir. 1998).

10. Here, Class Counsel secured a common fund related to Chaparral's operations and deductions taken after filing bankruptcy (i.e., a cash settlement amount) of \$3,500,000 of which \$850,000 is to be paid as attorney fees and \$150,000 is to be paid to the Class Representative. Class Counsel also settled the Class Proof of Claim related to improper deductions taken by Chaparral prior to filing bankruptcy for \$45,000,000.00.

11. "A request for attorney's fees should not result in a second major litigation. Ideally . . . litigants will settle the amount of a fee." *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983). That is what the parties have done in the Settlement Agreement. Debtors have agreed to pay the Fee Award to Class Counsel. Debtors also agreed to pay the Incentive Award to the Class Representatives which has been preliminarily approved by the Court.

C. THE JOHNSON FACTORS SUPPORT THE REQUESTED AMOUNT.

12. **Time and labor involved.** Movants have been litigating the Class claims since 2011. In 2015, while the Movants were waiting on the U.S. District Court for the Western District of Oklahoma to rule on their Motion to Certify the Class, Debtors filed their voluntary petitions for Chapter 11 bankruptcy. Class Counsel's law firm has expended 9,219 hours up to the filing date. After Debtors filed these Chapter 11 proceedings, Class Counsel has expended an additional 1,157 hours prosecuting the Class claims through preliminary approval. Exhibit A. As described in more detail in the Helms Declaration, the 10,376 total hours at the normal rates charged by Class Counsel at the trial equates to approximately \$2,048,434.00.

13. **The novelty and difficulty of the questions.** The underlying Class claims of underpayment of royalties are very complex and very difficult to prove. The cases require experienced experts in petroleum engineering and accounting to prove that the Class members

were not properly paid. To get a class certified on these types of claims is just as difficult and complex. Chaparral vigorously defended against every claim and objected at every turn to certifying the Class in Oklahoma and herein. The movants and Debtors continued to vigorously and zealously litigate the issues until a settlement was reached on the eve of oral arguments before the Third Circuit Court of Appeals. Additional detail is set forth in the Helms Declaration.

14. **The skill requisite to perform the legal service properly.** Given the complexity of the lawsuit, the fact that significant competence and skill were required of Class Counsel seems self-evident. Debtors are represented in this case by highly experienced and renowned counsel. With input from its own very skilled in-house counsel, and with superior access to and knowledge of the information at issue in this case, all of which should be considered when judging the skill required of Class Counsel. *See In re King Res. Co. Sec. Litig.*, 420 F.Supp. 610, 634 (D. Colo. 1976); *see also Stalcup v. Schlage Lock Co.*, 505 F.Supp.2d 704, 707 (D. Colo. 2007) ("Able defense counsel zealously and survigrouslly [*sic*] litigated on behalf of the defendants, and lead counsel were required to meet these challenges at most every turn. This factor...carries significant weight, and tends to support a generous award of attorney fees.").

15. Debtors vigorously contested virtually every procedural and evidentiary issue, as well as class certification. Class Counsel therefore had to have the skill necessary to prevail on procedural and evidentiary issues.

16. Class Counsel respectfully submits that this Court's finding as to the skill requisite to perform the legal services in this lawsuit should be akin to that in *Stalcup*, to wit:

Particularly in a case as complex as this case, lead counsel must have a very high level of experience and expertise if the plaintiffs are to have any chance of success. In this case, there is no serious challenge to the conclusion that lead counsel possesses a high level of skill and expertise. This factor carries significant weight because the plaintiff class likely would not have obtained any relief without the assistance of counsel with a high level of skill and expertise. Further,

lead counsel should be rewarded for their successful application of their skill and expertise. This factor augurs toward a substantial fee award.

505 F.Supp.2d at 707-08.

17. **The preclusion of other employment by the attorney due to acceptance of the case.** Class Counsel primarily represents clients on an hourly basis and continued to handle other legal matters during the pendency of these proceedings. Notwithstanding, this Lawsuit took over 10,000 hours of time and resources thus precluding Class Counsel from handling other matters.

Many cases of this size and scope involve class counsel from multiple law firms, to reduce counsel's risk and exposure. Here, however, Class Counsel has handled this lawsuit from inception. Co-counsel was retained in 2015 to assist with the Bankruptcy issues in Delaware as Class Counsel was not admitted to practice in Delaware.

18. Courts generally recognize that prosecuting a class action of this size and scope necessarily precludes other employment. *See, e.g., In re Savings Invest. Svc. Corp. Loan Commitment Litig. v. Heitner Corp.* (unpub.), 1990 WL 61936 at *4 (W.D. Okla. 1990) ("Because the case required each firm to devote resources, it is arguable that each was precluded from accepting other employment, although...neither has so argued to the court in its fee petition."); *Stalcup*, 505 F.Supp.2d at 708 ("Lead counsel...does not cite any particular legal business that was turned away because of the demands of this case. It is fair to assume, however, that lead counsel's efforts on this case could have been devoted to other cases which may have proven worthwhile."). Such a finding is warranted here as well.

19. **The customary fee.** The parties negotiated the amount of the fee to be received by Class Counsel and the fee to be received by the Class Representative. Courts have recognized, where "the amount of the fees is important to the party paying them, as well as to the attorney recipient, it seems that an agreement 'not to oppose' an application for fees up to a point is essential

to the completion of the settlement, because the defendants want to know their total maximum exposure and the plaintiffs do not want to be sandbagged.” *Waters v. Int’l Precious Metals Corp.*, 190 F.3d 1291, 1293 n.4 (11th Cir. 1999) (quoting *Malchman v. Davis*, 761 F.2d 893 (2d Cir. 1985), *abrogated on other grounds by Amchem Prods., Inc. v. Windsor*, 521 U.S. 591 (1997)). Of course, the Court is not bound by the parties' agreement, or by what is customary, and retains "a significant supervisory role." *Id.* at 1293. "The district court 'has great latitude in formulating attorney's fees awards subject only to the necessity of explaining its reasoning....'" *Id.* (quoting *McKenzie v. Cooper, Levins & Pastko, Inc.*, 990 F.2d 1183 (11th Cir. 1993)).

20. In the present case, the agreed upon fee to Class Counsel is 24% of the total amount of the \$3,500,000 fund. The fee to the Class Representative is 4% of the total fund. As shown by the chart below at p. 13, ¶ 31, the fees awarded in Class actions in Oklahoma are normally higher, 30% to 51%.

21. **Whether the fee is fixed or contingent.** The fee agreement with the Class Representative was a hybrid agreement. The Class Representative agreed to pay an hourly rate until a Class was certified, at which time the fee changed to a percentage of 50% as allowed by Oklahoma law. Okla. Stat. Tit. 5, § 7.

22. The “percentage of common fund” approach is intended to approximate the market by basing the fee award on what counsel would ordinarily charge via a contingency fee agreement. See *In re Con’t Ill. Sec. Litig.*, 962 F.2d 566, 572 (7th Cir. 1992) (“The class counsel are entitled to the fee they would have received had they handled a similar suit on a contingent fee basis with a similar outcome, for a paying client.”). Perhaps the best measure of the “customary fee” and/or “market value” of Class Counsel’s services “is any contingency fee agreement negotiated at the outset of the litigation, when the risk of loss still existed.” *Millsap*, at * 7 (citing *In re Synthroid*

Mkt'g Litig., 264 F.3d 712 (7th Cir. 2001)); see also 4 *Newberg on Class Actions* § 14.6 (“If named plaintiffs have agreed to pay a [specified] contingent fee, that is powerful evidence of a reasonable fee.”).

23. **Time limitations imposed by the client or the circumstances.** The client did not impose any time limitations on Class Counsel. The case itself presented time issues. The statute of limitations in Oklahoma for breach of a written agreement is five (5) years and the torts alleged have two (2) year statute of limitations from the time the tort occurred or when it was discovered or should have been discovered. Each month when royalties were paid (or under paid) started a new period. The nature of the claims required extensive investigation prior to filing the case. The remainder of the case followed traditional class action timelines in federal court.

24. “[P]riority work that delays a lawyer’s other work is entitled to a premium.” *Stalcup*, 505 F.Supp.2d at 708. This lawsuit has been a priority for Class Counsel.

25. **The amount involved and the results obtained.** The amount involved and the results obtained are "a decisive factor" in determining whether an attorney fee award is fair and reasonable. *Brown*, 838 F.2d at 456. This is not always the case and, as such, should not be undervalued. *See, e.g., In re Rent-Way*, 305 F.Supp.2d 491, 518 (W.D. Pa. 2003) (noting that obtaining class certification was "undeniably of great importance to the class”).

26. First, this lawsuit was certified as a class action *before* it settled. This is not always the case and, as such, should not be undervalued. *See, e.g., In re Rent-Way*, 305 F.Supp.2d at 518 (noting that obtaining class certification was "undeniably of great importance to the Class" and citing *In re Corel Corp.*, 293 F.Supp.2d 484 (E.D. Pa. 2003) for the proposition that "the value of a class action in terms of the range of recovery one can expect depends largely on the certification of the class and the ability to sustain that class through trial").

27. Second, the cash settlement amount to the Class of \$2,500,000 is significant. "Unlike many other class actions, the total fund amount...[is] not illusory or meaningless. Each class claimant benefit[s]...because...the individual payment [is] based upon a percentage of the total fund." *Waters*, 190 F.3d at 1297. Importantly, members of the Class need not "opt in" or make a claim to recover their share of the proceeds, and no "coupons" are involved. Rather, the Settlement Amount will be allocated back to the Class Wells (based on volume) and then back to the royalty owners (based on their percentage share). Thus, the allocation itself is based upon objective facts discovered and analyzed by Class Counsel and their experts during the litigation. Thus, by doing nothing, the Class receives a timely actual cash settlement. Theoretically, the Class will also receive their entire royalties and not have improper deductions made by the new Chaparral management.

28. **The experience, reputation, and ability of the attorneys.** As set forth in the Helms Declaration, Class Counsel has been practicing law for thirty-three (33) years in multiple jurisdictions. Class Counsel has successfully filed and resolved several Class Actions, including underpayment of royalties by operators such as Chaparral. Class Counsel's efforts and success in this case exemplify his abilities as well as his co-counsel at Fox Rothschild.

29. **The undesirability of the case.** Chaparral is a substantial oil and gas company and has employed the best defense attorneys and bankruptcy attorneys to endure litigation over many years (as evidenced herein). Indeed, with actual out-of-pocket costs of over \$400,000.00, over 10,000 hours of time, legal proceedings in two (2) jurisdictions, two of which involve bankruptcy proceedings, make this case undesirable. "Quintessentially, the risk to lead counsel [is] financial. Most attorneys are unable or unwilling to take such a financial risk.... This factor carries significant weight and weighs in favor of a substantial fee award." *Stalcup*, 505 F.Supp.2d at 709.

30. **The nature and length of the professional relationship with the client.** Class Counsel has represented Naylor Farms for many years. This is not a significant factor in determining a reasonable attorney fee in this matter.

31. **Awards in similar cases.** Although this Court is vested with wide discretion to award attorney fees, the Court may consider percentages awarded in other common fund cases. *See, e.g., Millsap*, at *11. According to filings in other cases, the following amounts have been awarded in similar class actions in Oklahoma:

<u>Case³</u>	<u>Common Fund (Cash Value Only)</u>	<u>Total Award of Fees & Costs</u>	<u>Attorney Fee</u>	<u>Litigation Costs</u>
<i>Fazekas, et al. v. Atlantic Richfield Co., et al.</i> , C-98-65 Latimer Co. Oklahoma	\$6,250,000	51.40%	35.00%	10.00%
<i>Been v. OK Industries</i> , CIV-02-285, E.D. Okla.	\$15,673,893	47.80%	42.00%	2.60%
<i>Kouns v. Conoco Inc.</i> , CJ-98-61 Dewey Co. Oklahoma	\$4,300,000	46.04%	42.565	3.02%
<i>Velma-Alma (Howell, et al.) v. Texaco</i> , CJ-02-206E Stephens Co. Oklahoma	\$27,000,000	46.02%	40.00%	4.57%
<i>Rudman v. Texaco</i> , CJ-91-1-E Stephens Co. Oklahoma	\$25,000,000	44.27%	40.00%	3.27%
<i>McIntosh v. Questar Explor. & Prod. Co.</i> , CJ-02-22 Major Co. Oklahoma	\$1,500,000	43.54%	40.00%	3.20%
<i>Laverty v. Newfield Explor. Mid-Continent</i> , CJ-02-101 Beaver Co. Oklahoma	\$17,250,000	43.32%	40.00%	2.92%
<i>Brown v. Citation Oil & Gas Corp.</i> , CJ-04-217 Caddo Co. Oklahoma	\$5,250,000	43.29%	40.00%	2.29%
<i>Black Hawk Oil Co., et al. v. Exxon Corp., et al.</i> , CJ-1993-2226 Tulsa Co. Oklahoma	\$9,000,000	42.87%	31.80%	7.35%
<i>Brumley, et al. v. ConocoPhillips Co.</i> , CJ-2001-5 Texas Co. Oklahoma	\$29,261,379	42.16%	37.91%	3.12%

³ It is Class Counsel's understanding that all of the cases in this list settled sometime before a trial on the merits.

<i>Michusson, et al. v. Exco Resources, Inc.</i> , CJ-2010-32 Caddo Co. Oklahoma	\$23,500,000	41.45%	40.00%	0.81%
<i>Continental Resources, Inc., et al. v. Conoco Inc., et al.</i> , CJ-1995-739 Garfield Co. Oklahoma (consolidated with CJ-2000-356)	\$23,000,000	41.24%	40.00%	0.74%
<i>Robertson, et al. v. Sanguine Ltd., et al.</i> , CJ-02-150 Caddo Co. Oklahoma	\$13,250,606	41.08%	40.00%	0.08%
<i>Simmons, et al. v. Anadarko Petroleum Corp.</i> , CJ-2004-57 Caddo Co. Oklahoma	\$155,000,000	41.06%	40.00%	0.56%
<i>Lobo Explor. Co. v. BP America Prod. Co., f/k/a Amoco Prod. Co.</i> , CJ-1997-72 Beaver Co. Oklahoma	\$150,000,000	41.00%	40.00%	0.50%
<i>Mayo, et al. v. Kaiser-Francis Oil Co., et al.</i> , CJ-1993-348 Grady Co. Oklahoma	\$5,000,000	40.85%	40.00%	0.85%
<i>Velma-Alma Indep. Sch. v. Chesapeake Op. Inc.</i> , CJ-02-331E Stephens Co. Oklahoma	\$10,500,000	40.01%	34.95%	3.05%
<i>Bank of America v. El Paso Natural Gas Co., et al.</i> , CJ-1997-68	\$66,000,000	39.90%	37.00%	2.56%
<i>Shockey, et al. v. Chevron USA Inc.</i> , CJ-01-7 Washita Co. Oklahoma	\$60,000,000	37.77%	33.33%	4.02%
<i>Duke v. Apache Corp.</i> , CJ-94-32 Dewey Co. Oklahoma	\$1,967,500	37.02%	33.33%	3.69%
<i>Lawrence v. Cimarex Energy Co.</i> , CJ-04-391 Caddo Co. Oklahoma	\$6,475,000	35.83%	33.33%	2.11%
<i>Barnaby, et al. v. Marathon Oil Co.</i> , C-96-40 Latimer Co. Oklahoma	\$3,645,241	35.51%	33.33%	1.85%
<i>Booth, et al. v. Cross Timbers Oil Co.</i> , CJ-98-16 Dewey Co. Oklahoma	\$2,500,000	35.33%	33.33%	1.60%
<i>Kouns, et al. v. Kaiser-Francis Oil Co.</i> , CJ-98-45 Dewey Co. Oklahoma	\$3,100,000	34.69%	33.33%	0.97%
<i>Kouns, et al. v. Louis Dreyfus Natural Gas Corp.</i> , CJ-98-20 Dewey Co. Oklahoma	\$2,788,125	34.56%	33.33%	0.79%
<i>Duke v. Samson Resources Co.</i> , CJ-94-31 Dewey Co. Oklahoma	\$1,454,375	30.21%	30.00%	0.21%
<i>Greghol Ltd Partnership v. Barrett Resources Corp.</i> , CJ-1996-166 Canadian Co. Oklahoma	\$180,000	30.00%	30.00%	

<i>Cactus Petro. Corp. v. Chesapeake Op. Inc.</i> , CJ-04-4 Harper Co. Oklahoma	\$6,500,000	30.00%	26.37%	3.29%
<i>Weber, et al. v. Mobil Oil Corporation</i> , CJ-01-53 Custer Co. Oklahoma	\$30,750,000		40.00%	
<i>Bridenstine v. Questar Corp.</i> , CJ-2000-1 Texas Co. Oklahoma	\$22,500,000		30.00%	
<i>Hill, et al. v. Marathon Oil Co.</i> , CIV-08-37-R W.D. Okla.	\$40,000,000	34.57%	33.3%	1.02%
<i>Naylor Farms, Inc. v. Anadarko OGC Company, et al.</i> , CIV-08-668-R W.D. Okla.	\$1,845,000 (QEP) \$55,000 (Anadarko)	54%	41%	10.53%
<i>Fankhouser, et al v. XTO Energy Inc.</i> , CIV-07-798-L W.D. Okla.	\$37,000,000		40%	

32. **Class Representative's Incentive Award.** "The practice of granting incentive awards to Class Representatives is common and widespread in class litigation." *Ponca Tribe of Indians*, at *2. The purpose of the award is "to compensate the named plaintiff for any personal risk incurred by the individual for the benefit of the lawsuit." *McNeely*, at *16. "In deciding whether such an award is warranted, relevant factors include the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation." *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998).

In this case, the Class Representative attended the hearings, mediations, participated in responding to discovery, had the President's deposition taken, and participated in the multiple appeals. The Helms Declaration sets forth the time spent by the Class Representative. The Class Representative also paid part of the costs and expenses incurred in the case which have exceeded \$400,000.00.

33. **Litigation Expenses.** "There is no doubt that an attorney who has created a common fund for the benefit of the class is entitled to reimbursement of...reasonable litigation

expenses from that fund." *In re Rent-Way*, 305 F.Supp.2d at 519 (quoting *In re Corel Corp.*, supra). In prosecuting this lawsuit, Class Counsel incurred certain costs for expert consultations, document reproduction, legal research, depositions, travel, etc. [See Helms Declaration]. Accordingly, Class Counsel and the Class Representative have borne all costs to the Class. The costs incurred by Class Counsel were all necessary and reasonable and the settlement amounts will cover the costs and case expenses incurred.

34. Where, as here, the parties have negotiated an arms' length settlement, "[a] court should refrain from substituting its own value for a properly bargained-for agreement." *In re Apply Computer, Inc. Derivative Litig.*, 2008 U.S. Dist. LEXIS 108195, at *12 (N.D. Cal. Nov. 5, 2008). Where there is no evidence of collusion and no detriment to the parties, courts "should give substantial weight to a negotiated fee amount, assuming that it represents the parties' best efforts to understandingly, sympathetically, and professionally arrive at a settlement as to attorney's fees." *Ingram v. Coca-Cola Co.*, 200 F.R.D. 685, 695 (N.D. Ga. 2001) (citation omitted).

III. CONCLUSION

35. For all the foregoing reasons, Movants respectfully request the Bankruptcy Court grant the relief requested.

Dated: October 26, 2020
Wilmington, Delaware

/s/ Seth A. Niederman
Seth A. Niederman (No. 4588)
FOX ROTHSCHILD LLP
919 N. Market Street, Suite 300
Wilmington, DE 19801-3046
Telephone: 302-654-7444
Fax: 302-656-8920
Email: sniederman@foxrothschild.com

-and-

Conner L. Helms (*pro hac vice*)
HELMS LAW FIRM
1 NE 2nd Street, Suite 202
Oklahoma City, OK 73104
Telephone: 405-319-0700
E-mail: conner@helmslegal.com

Proposed Settlement Class Counsel

Exhibit “A”

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----	X	
In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC.,	:	Case No. 16-11144 (LSS)
	:	
Reorganized Debtor.	:	Re: Docket No. _____
	:	

-----	X	
-----	X	
In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC., <i>et al.</i> ,	:	Case No. 20-11947 (MFW)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Re: Docket No. _____
	:	
-----	X	Hearing Date: _____

**DECLARATION OF CONNER L. HELMS IN SUPPORT OF APPLICATION OF
CLASS CLAIMANTS FOR ATTORNEYS' FEE AWARD AN INCENTIVE AWARD**

STATE OF OKLAHOMA)	
)	
COUNTY OF OKLAHOMA)	ss.

I, Conner L. Helms, declare:

1. I am a member in good standing of the State Bar of Oklahoma, the State Bar of Texas, and the State Bar of New York.

2. I have been practicing law in Oklahoma since 1987. I am also admitted to the U.S. Supreme Court, the U.S. Courts of Appeals for the 3rd, 5th, 9th, and 10th Circuits, and all U.S. District Courts in Oklahoma and Texas.

3. I am the President of Conner L. Helms & Associates, P.C. d/b/a Helms Law Firm ("Helms Law Firm") and a Partner at the law firm of Helms & Underwood ("H&U") (which is

currently being dissolved), counsel for Naylor Farms, Inc., Class Representative, and the Class Counsel for Class Claimants for settlement purposes.

4. I submit this Declaration in support of the Motion for Approval and Payment of Class Counsel Fees and Expenses and the Class Representative's Incentive Award. I make this Declaration based on personal knowledge and if called to testify, I could and would competently testify to the matters contained herein.

II. Qualifications of Class Counsel

5. In 1997, I formed the law firm Helms & Underwood with Gary Underwood and we primarily handled complex commercial litigation cases until the firm began dissolution in October 2017. I have represented Naylor Farms in numerous legal matters since 1997 and have been the lead counsel in the litigation against Chaparral Energy, LLC ("Chaparral") including the Bankruptcy proceedings of all the Chaparral affiliated entities ("Debtors"). Since October 2017, I have continued to represent Naylor Farms through Helms Law Firm. I am also AV rated by my peers according to Martindale-Hubbell.

6. I have been involved in multiple class actions : *Fankhouser v. XTO Energy, Inc.*, 2012 U.S. Dist. LEXIS 106954, 2012 WL 4815538 (W.D. Okla.); *Naylor Farms, Inc. v. Anadarko OGC Co.*, 2011 U.S. Dist. LEXIS 151923 (W.D. Okla.); *Haar v. OXY, USA, Inc.*, In the District Court of Tulsa County, State of Oklahoma, Case No. CJ-1995-2973; *Sherry Morrison v. Questar Corporation, et al.*, In the District Court of Beaver County, State of Oklahoma, Case No. CJ- 2009-66; *Jennifer McKnight, et al. v. Linn Operating, Inc.*, In the United States District Court for the Western District of Oklahoma, Case No. CIV-10-30-R; *Sherry Morrison v. Anadarko Petroleum Corp., In the United States District Court for the Western District of Oklahoma, Case No. CIV-10-135-M*; *Jennifer McKnight, et al. v. Sweetwater Exploration, LLC*, In the District Court of

Roger Mills County, State of Oklahoma, Case No. CJ-2009-17; *Production Development Properties, et al. v. Total Petroleum, Inc.*, In the District Court of Oklahoma County, State of Oklahoma. I also represented the Estate of Ferdinand Marcos and Imelda Marcos in *Hilago, et al. v. Estate of Ferdinand Marcos, et al* in the United States District Court of Hawaii and in other jurisdictions.

7. My law firm was approved as Class Counsel by the Chief Judge of the U.S. District Court for the Western District of Oklahoma, the Honorable Joe Heaton, when the class was certified January 17, 2017, and I was approved in these proceedings as Settlement Class Counsel August 27, 2020.

III. Time Involved in This Case.

8. I supervised all the attorneys, paralegals and law clerks that worked on this case from its inception when I was hired by Naylor Farms, Inc. The fee agreement was a hybrid hourly/contingency fee arrangement. The client agreed to pay a reduced hourly fee for lawyers, paralegals and law clerks and case expenses and costs until a class was certified. If a class was certified, the fee changed to a contingency of 50% and case expenses and costs were divided equally between client and the law firm. The reduced hourly rates charged ranged from \$450 to \$250 for lawyers and \$150 to \$100 for paralegals and law clerks. The Motion for Class Certification was filed October 13, 2015. The issue was fully briefed and a hearing was set when Debtors filed bankruptcy in May 2016.

9. From the time we were hired in 2008 until the hearing on preliminary approval of the settlement agreement on August 26, 2020, 10,376 hours were spent by Helms & Underwood and the Helms Law Firm. 9,219 hours had been spent up to the Debtors' filing date in May 2016. An additional 1,157 hours has been incurred from the filing date through preliminary approval of

the settlement agreement. Seven (7) lawyers, 4 paralegals, and multiple interns have worked on the case through the years. The attorneys, dates of admission, and reduced rates negotiated for each were:

Conner Helms (1987)(\$450);

Gary Underwood (1975)(\$450);

Darren Cook (1997)(\$250);

Erin Moore (2005)(\$200);

Jason Hartwig (2009)(\$200);

Glenn Brown (2012)(\$250); and

Tiffany Peterson (2012)(\$250).

The reduced hourly rate equivalent for the time recorded equals \$2,048,434.00.

10. The case involved 1,889 gas wells operated by Chaparral in Oklahoma. The class certified involved over 10,000 royalty owners and 6,515 oil and gas leases. Based on rulings from the 10th Circuit Court of Appeals, every oil and gas lease for every royalty owner was reviewed, classified, and admitted for the class certification process. Three (3) experts were hired, a CPA, a Petroleum Engineer, and an Oil and Gas Attorney. Twenty (20) depositions were taken, including the Class Representative. Over 700,000 pages of documents, along with electronic data, were produced and reviewed.

11. Chaparral appealed the Order from the W.D. of Oklahoma certifying the class action to the 10th Circuit Court of Appeals, which was affirmed after oral arguments. Chaparral appealed the Order from the Bankruptcy Court allowing the Class Proof of Claim to the U.S. District Court for Delaware, which affirmed the ruling. Chaparral filed an appeal of the District Court's Order to 3rd Circuit Court of Appeals, which was set for oral arguments when the parties

settled their claims. Mountains of pleadings and briefing have been prepared in prosecuting the Class claims.

12. When Chaparral filed bankruptcy, Fox Rothschild was retained as local counsel. Over \$512,000 has been paid for their services and case expenses and an additional \$85,000 plus invoice has been recently received. Helms & Underwood and the Helms Law Firm have paid over \$400,000 in case costs and expenses that have not been reimbursed by the client.

IV. Class Representative.

13. Dale Naylor is the current President of Naylor Farms, Inc. which is a family owned corporation. The family business of farming and ranching in the panhandles of Oklahoma and Texas are its main business activities. Mr. Naylor is the second generation to carry on the family business. The royalty interests involved in this case underly some of the reality owned by the entity.

14. Mr. Naylor has expended over 300 hours of his time pursuing the claims in this case. He assisted in gathering evidence used as exhibits in the case. He was deposed and reviewed the other 19 depositions taken. He attended every hearing in the Oklahoma case and oral arguments in Denver, Colorado. The drive from his home in Balco, Oklahoma to Oklahoma City is approximately 4 hours each way.

15. Naylor Farms has paid one-half of the costs and expenses incurred since the class was certified in January 2017. Prior to that time, Naylor Farms paid all the costs and expenses. The total for costs and expenses paid by Naylor Farms has exceeded \$400,000.00.

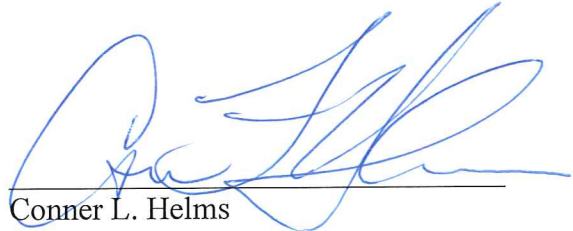
V. Reasonableness of Class Counsel Fees and Class Representative Incentive Award.

16. The total fee of \$850,000.00 and incentive award of \$150,000.00 will not cover the time and money that has been invested by Class Counsel and the Class Representative in pursuing

the Class claims. After reimbursement for costs and expenses, approximately \$100,000.00 of the total settlement amount will be left to compensate for 10,000 plus hours expended so far. This equates to less than \$10 per hour.

17. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct

FURTHER AFFIANT SAYETH NOT.


Conner L. Helms

SUBSCRIBED AND SWORN to before me this 26th day of October 2020
by Conner L. Helms.


NOTARY PUBLIC

MY COMMISSION EXPIRES:

11008067

09/01/2023
[SEAL]



**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC., <i>et al.</i> ,	:	Case No. 16-11144 (LSS)
	:	
	:	
Reorganized Debtor. ¹	:	Hearing Date: December 9, 2020 @ 3:00 p.m. (ET)
_____	:	Objection Date: Nov. 9, 2020 @ 4:00 p.m. (ET)
In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC., <i>et al.</i> , ²	:	Case No. 20-11947 (MFW)
	:	(Jointly Administered)
	:	
Debtors.	:	Hearing Date: December 9, 2020 @ 3:00 p.m. (ET)
_____	:	Objection Date: Nov. 9, 2020 @ 4:00 p.m. (ET)

**NOTICE OF MOTION OF CLASS COUNSEL AND CLASS REPRESENTATIVE FOR
APPROVAL AND PAYMENT OF CLASS COUNSEL FEES AND EXPENSES, THE
CLASS REPRESENTATIVE’S CONTRIBUTION FEE, AND THE ADMINISTRATIVE
EXPENSES OF SETTLEMENT TO BE PAID FROM THE SETTLEMENT PROCEEDS**

PLEASE TAKE NOTICE THAT pursuant to the Preliminary Approval Order (I) Directing The Application Of Bankruptcy Rule 7023, (II) Preliminarily Approving The Settlement, (III) Appointing The Settlement Administrator, (IV) Approving Form And Manner Of Notice To Class Members, (V) Certifying A Class Designating A Class Representative, And Appointing Class Counsel For Settlement Purposes Only, (VI) Scheduling A Settlement Fairness Hearing, and (VII) granting related relief (D.I. 122), the Class Representative Naylor Farms, Inc. and Settlement Class Counsel Conner L. Helms have filed a Motion Of Class Counsel And Class Representative For Approval And Payment Of Class Counsel Fees And Expenses, The Class Representative’s Contribution Fee, And The Administrative Expenses Of Settlement To Be Paid From The Settlement Proceeds.

PLEASE TAKE FURTH NOTICE THAT if you seek to object or otherwise respond to the Motion, you must file a response/objection to the Motion on or before **November 9, 2020**

at 4:00 p.m. (prevailing Wilmington, DE time) in writing, with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, DE 19801. If a copy of the Motion is not enclosed, you may obtain it by sending a written request to the Trustee at the address listed below.

At the same time, you must also serve a copy of the response/objection upon the class counsel and class representative:

Fox Rothschild LLP Attn: Seth A. Niederman 919 North Market Street, Suite 300 Wilmington, DE 19899-2323	Helms Law Firm Attn: Conner L. Helms One NE 2 nd Street, Suite 202 Oklahoma City, OK 73401
Davis Polk & Wardwell LLP Attn: Angela Libby, James McClammy, and Jacob Weiner 450 Lexington Avenue New York, NY 10017	Richards, Layton & Finger, P.A. Attn: John H. Knight, Amanda R. Steele, and Brendan J. Schlauch One Rodney Square 920 North King Street Wilmington, DE 19801
Crowe & Dunlevy Attn: John J. Griffin, Jr. 324 North Robinson Avenue Suite 100 Oklahoma City, OK 73102	Vinson & Elkins LLP Attn: William L. Wallander and Bradley Foxman Trammell Crow Center 2001 Ross Avenue, Suite 3900 Dallas, TX 75201
Stroock & Stroock & Lavan LLP Attn: Erez E. Gilad and Samantha Martin 180 Maiden Lane New York, NY 10038	The Office of the United States Trustee for the District of Delaware 844 King Street, Suite 2207 Wilmington, DE 19801

A HEARING IS SCHEDULED FOR DECEMBER 9, 2020 AT 3:00 P.M. (ET)

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF DEMANDED BY THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Signature on following page.

FOX ROTHSCHILD LLP

By: /s/ Seth A. Niederman

Seth A. Niederman (No. 4588)
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sniederman@foxtotschild.com

-and-

Conner L. Helms
Helms Law Firm
One NE 2nd Street, Suite 202
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(405) 319-0700/Fax (405) 319-9292
conner@helmslegal.com

Dated: October 26, 2020

Counsel for Naylor Farms

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC., <i>et al.</i> ,	:	Case No. 16-11144 (LSS)
	:	
	:	
Reorganized Debtor. ¹	:	Hearing Date: December 9, 2020 @ 3:00 p.m.
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In re:	:	Chapter 11
	:	
CHAPARRAL ENERGY, INC., <i>et al.</i> , ²	:	Case No. 20-11947 (MFW)
	:	(Jointly Administered)
	:	
Debtors.	:	Hearing Date: December 9, 2020 @ 3:00 p.m.
_____	:	Objection Date: Nov. 9, 2020 @ 4:00 p.m.

**CERTIFICATION OF SERVICE OF MOTION OF CLASS COUNSEL AND CLASS
REPRESENTATIVE FOR APPROVAL AND PAYMENT OF CLASS COUNSEL FEES
AND EXPENSES, THE CLASS REPRESENTATIVE’S CONTRIBUTION FEE, AND
THE ADMINISTRATIVE EXPENSES OF SETTLEMENT TO BE PAID
FROM THE SETTLEMENT PROCEEDS**

SETH NIEDERMAN, of full age, hereby certifies as follows:

1. I am a partner with the law firm of Fox Rothschild LLP, attorneys for unsecured creditors and putative class plaintiffs Naylor Farms, Inc. and Harrel’s LLC in the above proceedings.

2. On October 26, 2020, I caused true and correct copies of the following documents to be served, *via* U.S. Postal Service First Class Mail, postage prepaid and *via* electronic mail on the parties on the attached **Service List**:

- Motion of Class Counsel and Class Representative for Approval and Payment of Class Counsel Fees and Expenses, the Class Representative’s Contribution Fee and the Administrative Expenses of Settlement to be Paid from the Settlement Proceeds (the “Motion”), proposed form of *Order granting the Motion* and *Notice of Motion*.

3. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

FOX ROTHSCHILD LLP

By: /s/ Seth A. Niederman
Seth A. Niederman (No. 4588)
919 N. Market Street, Suite 300
Wilmington, DE 19899-2323
Telephone (302) 654-7444
Facsimile (302) 656-8920
sniederman@foxrothschild.com

Dated: October 26, 2020

Service List

Davis Polk & Wardwell LLP
Attn: Angela Libby, James McClammy, and
Jacob Weiner
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New York, NY 10017
angela.libby@davispolk.com;
james.mcclammy@davispolk.com;
jacob.weiner@davispolk.com

Richards, Layton & Finger, P.A.
Attn: John H. Knight, Amanda R. Steele, and
Brendan J. Schlauch
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egilad@stroock.com;
smartin@stroock.com

The Office of the United States Trustee
for the District of Delaware
844 KingStreet, Suite 2207
Wilmington, DE 19801
David.L.Buchbinder@usdoj.gov;
Linda.Richenderfer@usdoj.gov