

IN THE DISTRICT COURT OF ROGER MILLS COUNTY
STATE OF OKLAHOMA

Suzanne Broadbent, on behalf of herself and
all others similarly situated,

Plaintiffs,

v.

Presidio Petroleum, LLC,

Defendant.

FILED

NOV 14 2023

Case No. CV-2022-15

JAN BAILEY
COURT CLERK
ROGER MILLS COUNTY

**ORDER AWARDING PLAINTIFF'S ATTORNEYS' FEES, LITIGATION EXPENSES,
ADMINISTRATION, NOTICE, AND DISTRIBUTION COSTS, AND
CASE CONTRIBUTION AWARD**

Before the Court is Class Counsel's Motion for Approval of Plaintiff's Attorneys' Fees, Litigation Expenses, Administration, Notice, and Distribution Costs, and Case Contribution Award (the "Motion"), wherein Class Counsel seeks entry of an Order approving Class Counsel's request for: 1) Plaintiff's Attorneys' Fees in the amount of \$166,250.00; 2) Litigation Expenses in the amount of \$9,294.04 to date; 3) Administration, Notice, and Distribution Costs, which together with the Litigation Expenses shall not exceed \$70,000.00; and a 5) Case Contribution Award of \$10,000.00. The Court has considered the Motion, all matters and evidence submitted in connection with the Motion, and the proceedings at the Final Fairness Hearing. As set forth more fully below, the Court finds the Motion should be **GRANTED**.

IT IS THEREFORE ORDERED as follows:

1. This Order incorporates by reference the definitions in the Settlement Agreement and all terms not otherwise defined herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court, for purposes of this Order, incorporates herein its findings of fact and conclusions of law from its Judgment granting final approval of the class action Settlement as if fully set forth.

3. The Court has jurisdiction to enter this Order and over the subject matter of the Litigation and all parties to the Litigation, including all Settlement Class Members.

4. The Notices stated that Class Counsel would seek fees up to 35% of the cash value of the Settlement. The Notices also stated that Class Counsel would seek reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs. The Notice further stated that Class Representative would seek a Case Contribution Award not to exceed \$12,000.00. Notice of the requests in the Motion was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the requests is hereby determined to have been the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons and entities entitled to receive such notice, and fully satisfies the requirements of 12 O.S. § 2023 and due process.

5. Class Counsel provided the Court with evidence in support of the requests in their Motion. This evidence was submitted before the objection deadline, and none of the evidence was objected to or otherwise refuted by any Settlement Class Member.

6. Class Counsel is hereby awarded Attorneys' Fees of \$166,250.00, to be paid from the cash value of the Settlement. In making this award, the Court makes the following findings of fact and conclusions of law:

- a. The Settlement has created an up-front cash fund of \$475,000.00 and Future Benefits valued at approximately \$930,000.00. Settlement Class Members will

benefit from the Settlement that occurred because of the substantial efforts of Class Representative and Class Counsel.

- b. 12 O.S. § 2023(G) states that “the court may award reasonable attorney fees and nontaxable costs that are authorized by law or by the parties’ agreement.”
- c. In this case, Class Representative and Class Counsel agreed to the payment of attorney’s fees based upon a contingent percentage of fund method. Specifically, at the outset of the litigation, Class Representative agreed to a 40% contingent fee; however, Class Counsel has already voluntarily reduced their fee request to a 35% contingent fee of the cash component of the Settlement. The Oklahoma Supreme Court has approved the use of the percentage method for calculating attorney’s fees in a class action. *Strack v. Continental Resources Inc.*, 2021 OK 21, ¶ 16, 507 P.3d 6099 (“We hold that the plain language of Oklahoma’s class action attorney fee statute allows for the calculation of attorney’s fees under both the percentage and lodestar methods.”).
- d. The percentage methodology calculates the fee as a reasonable percentage of the value obtained for the benefit of the class. The Oklahoma Supreme Court has stated that the reasonableness of the requested attorney’s fee, whether utilizing the percentage method or lodestar method, must be determined by analyzing the factors set forth in 12 O.S. § 2023(G)(e). *Strack*, 2021 OK 21, ¶ 16-17.
- e. Not all of the factors apply in every case, and some deserve more weight than others depending on the facts at issue. Based upon that analysis, the applicable law, and the evidence submitted to the Court, I have concluded that the requested fee of \$166,250.00 is reasonable.

- f. The thirteen factors set out in 12 O.S. § 2023(G)(e) are: (1) the time and labor required, (2) the novelty and difficulty of the questions presented by the litigation, (3) the skill required to perform the legal services properly, (4) the preclusion of other employment by the attorneys 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 attorneys, (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; and (13) the risk of recovery in the litigation.
- g. The Court finds that each of the statutory factors favors the requested fee award.
- h. The Court finds that the eighth factor—the amount involved in the case and the results obtained—weighs in support of the requested fee. Here, the evidence shows that, under the results obtained factor, the fee request is fair and reasonable under the circumstances. The Settlement represents a significant, concrete monetary benefit to the Settlement Class. Unlike cases in which absent class members' recovery is contingent upon their submission of information or some sort of complicated claims process, here, these benefits are guaranteed and automatically bestowed upon the Settlement Class as a result of the Settlement. Accordingly, the “results obtained” factor strongly supports the requested fee award.
- i. The Court finds that the evidence regarding the novelty and difficulty of the questions presented in this action weighs in favor of the fee request. Class actions are known to be complex and vigorously contested. The legal and factual issues

litigated in this case involved complex and highly technical issues. The claims involved difficult and highly contested issues of Oklahoma oil-and-gas law that are currently being litigated in multiple forums. The successful prosecution and resolution of the Settlement Class's claims required Class Counsel to work with experts to analyze complex data to support their legal theories and evaluate the amount of alleged damages. The Court finds the fact that Class Counsel litigated such difficult issues against the vigorous opposition of highly skilled defense counsel and obtained a significant recovery for the Settlement Class further supports the fee request in this case. Moreover, Defendant asserted a number of significant defenses to the Settlement Class's claims that would have to be overcome if the Litigation continued to contested certification and trial. Thus, the immediacy and certainty of this recovery, when considered against the very real risks of continuing to a difficult trial and possible appeal, weighs in favor of the fee request.

- j. The Court finds that the third and ninth statutory factors—the skill required to perform the legal services and the experience, reputation, and ability of the attorneys—supports the fee request. The Court finds the Declarations and other undisputed evidence submitted prove that this Litigation called for Class Counsel's considerable skill and experience in oil-and-gas and complex class action litigation to bring it to such a successful conclusion, requiring investigation and mastery of complex facts, the ability to develop creative legal theories, and the skill to respond to a host of legal defenses. The Court also finds that the skill and experience of the

attorneys is evident from the submissions to this Court, and these attorneys possess the type of experience, reputation, and ability that supports the fee request.

- k. The Court finds that the evidence regarding the fourth and seventh statutory factors—the preclusion of other employment by Class Counsel and time limitations imposed by the client or circumstances—weighs in favor of the fee request (preclusion of employment) or are neutral (time limitations imposed by the client). The Declarations and other undisputed evidence prove that Class Counsel necessarily were hindered in their work on other cases due to their dedication of time and effort to the prosecution of this Litigation. This case required the devotion of significant time, energy, and resources from Class Counsel.
- l. The Court finds the evidence regarding the fifth statutory factor—the customary fee and awards in similar cases—further weighs in favor of the fee request. Class Counsel and Class Representative negotiated and agreed to prosecute this case based on a contingent fee of up to 40%. Here, Class Counsel has reduced the request to 35% of the cash component of the settlement. Additionally, considering the value of the Future Benefits to the Settlement Class, the requested fee is only approximately 12% of the entire value of the Settlement. Based upon the undisputed summary of awards granted in other Oklahoma class action royalty cases submitted by Class Counsel, the Court finds this fee is well within the range of the “customary fee” in oil and gas class actions in Oklahoma state and federal courts.
- m. The Court finds the sixth and thirteenth statutory factors—the contingent nature of the fee and the risk of recovery—also supports the fee request. Class Counsel

undertook this Litigation on a purely contingent fee basis (with the amount of any fee being subject to Court approval), assuming a risk that the Litigation would yield no recovery and leave them uncompensated. Courts consistently recognize that the risk of receiving little or no recovery is a major factor in considering an award of attorney's fees. Simply put, it would not have been economically prudent or feasible if Class Counsel were to pursue the case under any prospect that the Court would award a fee on the basis of hourly rates alone.

- n. The Court finds the evidence shows that the tenth statutory factor—the undesirability of the case—weighs in favor of the fee request. Compared to most civil litigation, this Litigation fits the “undesirable” test and no other firms or plaintiffs have asserted these claims against Defendant. Few law firms risk investing the time, trouble, and expenses necessary to prosecute this type of Litigation which can often take many years. The investment by Class Counsel of their time, money, and effort, coupled with the attendant potential of no recovery and loss of all the time and expenses advanced by Class Counsel, rendered the case sufficiently undesirable so as to preclude most law firms from taking a case of this nature.
- o. The Court finds the eleventh statutory factor—the nature and length of the professional relationship with the client—also supports the fee request. Class Representative was actively involved in the Litigation throughout its course.
- p. Lastly, the Court finds the evidence of the time and labor involved weighs in favor of the fee request. The time and labor Class Counsel have expended in the research, investigation, prosecution, and resolution of this Litigation is set forth in the Joint

Class Counsel Declaration. In summary, this evidence proves that Class Counsel spent significant time working with accounting experts in the prosecution and evaluation of the Settlement Class's claims and engaged in a lengthy and complex negotiation process to obtain this outstanding Settlement. The Court finds that Class Counsel has expended or will expend (including estimated time to fully conclude the Litigation) approximately 245 hours in this Litigation. \$450 per hour is a reasonable rate to value Class Counsel's time in a contested and complex oil and gas class action matter. Other Oklahoma courts have applied higher rates for the purposes of valuing lead class counsel's time in complex class cases. When compared to the time expended, the requested fee would represent a multiplier of approximately 1.5 times. A 1.5 multiplier is within accepted multiplier range under Oklahoma law as approved by the Oklahoma Supreme Court in *Strack* and is reasonable in this case. *See Id.*, at ¶ 30 (stating that even a 2.0 multiplier might be reasonable in a class action matter). Therefore, the Court finds that the requested fee is reasonable compared to the lodestar method approach.

- q. In summary, the Court finds that the Court should utilize the percentage of fund method to award fees of 35% of the Gross Settlement Fund, or \$166,250.00. The Court has fully considered all of the statutory factors in 12 O.S. § 2023(G)(e) and finds that the percentage of fund method is reasonable under the circumstances. Given the relatively small size of this class action, this was not a case wherein there was as significant economy of scale which might render the percentage of fund method to be unreasonable as was the Oklahoma Supreme Court's concern in *Strack*. *See Id.* at ¶ 22.

7. With respect to the request for reimbursement of Litigation Expenses and Administration, Notice, and Distribution Costs, the Court awards the following: 1) Litigation Expenses in the amount of \$9,294.04 to date; 2) Administration, Notice, and Distribution Costs to date of \$20,851.17; and 3) a reserve of up to \$39,854.79 for future Litigation Expenses and Administration, Notice, and Distribution Costs, subject to Court approval upon motion of Class Representatives. In making these awards, the Court makes the following findings of fact and conclusions of law:

- a. The prior findings of fact and conclusions of law are incorporated herein by reference.
- b. Class Counsel provided the Court with evidence in support of the requests for reimbursement of Litigation Expenses. None of the evidence was objected to or otherwise refuted by any Settlement Class Member.
- c. The Court finds that the Litigation Expenses were reasonably and necessarily incurred by Class Counsel and are directly related to their prosecution and resolution of the Litigation.
- d. Therefore, Class Counsel is awarded Litigation Expenses in the amount of \$9,294.04 to date.
- e. Class Counsel's request for approval of Administration, Notice, and Distribution Costs associated with effectuating the Settlement were also reasonably and necessarily incurred and are directly related to the administration of the Settlement.
- f. Therefore, the Court also approves Administration, Notice, and Distribution Costs to date of \$20,851.17.

- g. Class Counsel has also provided evidence that they anticipate incurring up to \$39,854.79 for future Litigation Expenses and Administration, Notice, and Distribution Costs. The Court further approves a reserve from the Gross Settlement Fund of \$39,854.79 for such future expenses, subject to approval by the Court upon motion of Class Representative.
8. With respect to the request for Case Contribution Award, the Court awards Class Representative a Case Contribution Award in the amount of \$10,000.00. In making this award, the Court makes the following findings of fact and conclusions of law:
- a. The prior findings of fact and conclusions of law are incorporated herein by reference.
 - b. Class Representative provided the Court with evidence in support of the request for Case Contribution Awards. This evidence was submitted to the Court before the objection deadline, and none of the evidence was objected to or otherwise refuted by any Settlement Class Member.
 - c. “Courts regularly grant incentive awards to compensate named class representatives for the work they performed--their time and effort invested in the case.” *Strack*, 2021 OK 21, ¶ 33.
 - d. Class Representative submitted the details of the actual time expended on services rendered to the Class. The time records submitted by Class Representative were unrefuted.
 - e. Because Class Representative dedicated time, attention, and resources to this Litigation and to the recovery on behalf of the Settlement Class from Defendant, the Court finds Class Representative should be awarded a Case Contribution Award

to reflect the important role played in representing the interests of the Settlement Class and in achieving the substantial result reflected in the Settlement. Additionally, because Class Representative undertook the risk of this Litigation, the Court finds that a Lodestar enhancement to arrive the that \$10,000.00 Case Contribution Award is reasonable and appropriate.

f. The Court finds Class Representative's request to be fair and reasonable and supported by the evidence. The Court therefore awards a Case Contribution Award in the total amount of \$10,000.00 to Class Representatives.

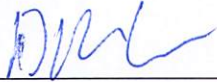
9. **Finality of this Order.** Any appeal or any challenge affecting this Order shall not disturb or affect the finality of the Judgment or the Settlement.
10. Exclusive jurisdiction is hereby retained over the parties and the Class Members for all matters relating to this Litigation, including the administration, interpretation, effectuation, or enforcement of the Settlement Agreement and this Order.
11. There is no reason for delay in the entry of this Order and this Order is entered as a final judgment of the Court.
12. The Escrow Agent and Settlement Administrator are authorized and ordered to distribute the amounts awarded herein to the persons entitled thereto in accordance with the timelines provided in the Settlement Agreement and in accordance with payment instructions provided by Class Counsel.

IT IS SO ORDERED this 14th day of Nov, 2023

/s/ Jill C Weedon
DISTRICT JUDGE

HONORABLE JILL WEEDON
DISTRICT COURT JUDGE

Approved as to Form:



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