

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

HENRY SEELIGSON, JOHN M.  
SEELIGSON, SUZANNE SEELIGSON  
NASH, and SHERRI PILCHER,  
Individually And On Behalf Of All Others  
Similarly Situated,

Case No. 3:16-cv-00082-K

*Plaintiffs,*

vs.

DEVON ENERGY PRODUCTION  
COMPANY, L.P.,

*Defendant.*

**APPENDIX TO (A) PLAINTIFFS’ MOTION FOR FINAL APPROVAL OF  
CLASS ACTION SETTLEMENT AND PLAN OF ALLOCATION; AND  
(B) CLASS COUNSEL’S MOTION FOR AN AWARD OF ATTORNEYS’ FEES,  
REIMBURSEMENT OF LITIGATION EXPENSES, AND  
SERVICE AWARDS TO NAMED PLAINTIFFS**

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Dated: April 27, 2021

Respectfully submitted,

*/s/ Joshua L. Hedrick*

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***Class Counsel for Plaintiffs and the Certified Class***

**CERTIFICATE OF SERVICE**

On April 27, 2021, I caused to be electronically submitted the foregoing document with the clerk of court for the U.S. District court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Joshua L. Hedrick

Joshua L. Hedrick

# EXHIBIT A

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M. SEELIGSON,  
SUZANNE SEELIGSON NASH, and SHERRI  
PILCHER, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

DEVON ENERGY PRODUCTION COMPANY,  
L.P.,

Defendant.

Civil Action No. 3:16-cv-00082-K

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement (“Settlement Agreement”) is entered on this 30<sup>th</sup> day of December, 2020 by and among Named Plaintiffs Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher (the “Named Plaintiffs”) and the Certified Class (defined herein), and Defendant Devon Energy Production Company, L.P. (“DEPCO” or “Defendant”), by and through their respective counsel (together, the “Settling Parties”).

**RECITALS<sup>1</sup>**

WHEREAS, on October 24, 2014, Named Plaintiffs filed an action entitled *Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher v. Devon Energy Production Company, L.P.* in the United States District Court for the Eastern District of Texas, and that action was assigned to the Honorable Rodney Gilstrap and given the case number 2:14-cv-00996-JRG-RSP (“*Seeligson*” or the “Litigation”);

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<sup>1</sup> These Recitals incorporate certain capitalized terms that are defined in Section I, *infra*.

WHEREAS, the Litigation was transferred from the Eastern District of Texas to the Northern District of Texas on January 12, 2016, assigned to the Honorable Ed Kinkeade, and given the case number 3:16-cv-00082-K;

WHEREAS, the *Seeligson* First Amended Class Action Complaint (ECF No. 49) (the “Amended Complaint”) alleged that DEPCO improperly calculated and intentionally underpaid millions of dollars in royalties to Named Plaintiffs and other lessors for processing gas extracted from Texas wells at the Bridgeport Gas Processing Plant (the “Bridgeport Plant”) owned by DEPCO’s affiliate, Devon Gas Services (“DGS”), from January 1, 2008 through February 28, 2014 (the “Class Period”) and Defendant answered, denied the claims, and counterclaimed;

WHEREAS, Named Plaintiffs and Plaintiffs’ Counsel have prosecuted the Litigation including discovery of documents and data, motion practice, depositions, research, accounting records review and analysis consultation, by and with expert witnesses, settlement mediations, land and lease record review and analysis, engineering review and analysis, damage modeling, and other investigations and preparation;

WHEREAS, Named Plaintiffs and Plaintiffs’ Counsel acknowledge that during the course of their prosecution of the Litigation, they have received, examined, and analyzed information, documents, testimony, and materials they deem necessary and appropriate to enable them to enter into this Settlement Agreement on a fully-informed basis, and after such examination and analysis, and based on the experience of Plaintiffs’ Counsel and their experts and consultants, Named Plaintiffs and Plaintiffs’ Counsel have concluded that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in the best interests of the Class and Named Plaintiffs;

WHEREAS, the Settling Parties, following discovery, investigation, and careful analysis of their respective claims and defenses, and with full understanding of the risks, expense, and uncertainty of continued litigation, desire to compromise and settle all issues and claims that were brought in the Action by or on behalf of Named Plaintiffs and members of the Class, on the one hand, and DEPCO, on the other hand;

WHEREAS, the Settling Parties agree that neither this Settlement Agreement nor the underlying Settlement shall constitute or be construed as any admission of liability or wrongdoing on the part of Defendant or any Released Party, which is expressly denied, or that Named Plaintiffs' claims or similar claims are or would be suitable for class treatment if the Action proceeded through litigation and trial;

WHEREAS, the Settling Parties also agree that neither this Settlement Agreement nor the underlying Settlement shall constitute or be construed as evidence of or an admission or concession on the part of Named Plaintiffs of any infirmity in any of the claims asserted in the Litigation, or an admission or concession that any of Defendant's defenses to liability or counterclaims had any merit; and

WHEREAS, the Settling Parties conducted arm's-length negotiations concerning a proposed class-wide settlement before mediator David Folsom, retired United States District Judge for the United States District Court for the Eastern District of Texas;

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and among the Settling Parties, subject to the approval of the Court, that the Litigation shall be fully and finally compromised, settled, and released, and that the Litigation shall be dismissed with prejudice subject to and upon the terms and conditions described below.



## **I. DEFINITIONS**

As used throughout this Settlement Agreement and any exhibits made a part hereof, the following terms shall have the meanings set forth below (and the below meanings shall apply without regard for whether the term is used in the singular or in the plural):

### **1. Amended Complaint**

“Amended Complaint” means the complaint against DEPCO in the Litigation filed on June 10, 2015.

### **2. Bridgeport Plant**

“Bridgeport Plant” means the Bridgeport Gas Processing Plant, where gas was processed by DEPCO’s affiliate, DGS, and royalties on such gas were underpaid to Named Plaintiffs.

### **3. Certified Class**

“Certified Class” has the meaning set forth in Section II(1) below.

### **4. Class Counsel or Plaintiffs’ Counsel**

“Class Counsel” or “Plaintiffs’ Counsel” means Kessler Topaz Meltzer & Check, LLP, the Seidel Law Firm, P.C., Wick Phillips Gould & Martin, LLP, and Mattingly & Roselius, PLLC.

### **5. Class Members**

“Class Members” means all members of the Certified Class who do not timely submit an Opt Out Request after receiving Class Notice.

### **6. Class Notice**

“Class Notice” means the notice of Settlement that will be provided to Putative Class Members in accordance with the Notice Plan, as defined herein. Class Notice will include a “Summary Notice” to be mailed and/or emailed to Putative Class Members and published in the Dallas, Fort Worth, Denton, and Wise County local newspapers in substantially the same form as Exhibit 1. The “Summary Notice” will include a reference to a Settlement Website containing

further details about the Settlement that shall be established, maintained, and operated by the Settlement Administrator consistent with this Settlement Agreement, and will also provide a telephone number Putative Class Members may call with questions about the Settlement. “Long Form Class Notice” means the notice of Settlement that will be posted on the Settlement Website, in substantially the same form as Exhibit 2.

**7. Court**

“Court” means the United States District Court for the Northern District of Texas.

**8. Defendant or DEPCO**

“Defendant” or “DEPCO” means Devon Energy Production Company, L.P.

**9. DEC**

“DEC” means Devon Energy Corporation.

**10. DGS**

“DGS” means Devon Gas Services, LP, an affiliate of DEPCO.

**11. Distribution Check**

“Distribution Check” means a check payable to a Class Member for the purpose of paying that Class Member’s share of the Net Settlement Fund pursuant to the Plan of Allocation.

**12. Effective Date of Settlement**

“Effective Date of Settlement” means the first date after: (1) the Court enters the Final Order and Judgment, in all material respects similar to the form attached hereto as Exhibit 3; and (2) all appellate rights with respect to said Final Order and Judgment have expired or been exhausted in such a manner as to affirm the Final Order and Judgment, except that an appeal solely from any award of attorneys’ fees to Class Counsel or the Plan of Allocation (as submitted or subsequently modified), shall not extend the Effective Date of Settlement.

**13. Fairness Hearing**

“Fairness Hearing” means the final hearing, held after the Preliminary Approval Order is issued and notice of the Settlement is disseminated to the Class, in which the Court will determine whether this Settlement Agreement should be approved as fair, reasonable, and adequate, and whether the proposed Final Order and Judgment should be entered, as well as to determine the amount of attorney’s fees and costs to be awarded to Class Counsel.

**14. Gross Settlement Fund or Settlement Fund**

“Gross Settlement Fund” means the total cash amount of \$28,000,000.00 to be paid by Defendant to the Class, plus any accrued interest earned on this amount while held in escrow, subject to the conditions, qualifications and reductions set forth in this Settlement Agreement.

**15. Litigation or Action**

“Litigation” or “Action” refers to the Civil Action No. 3-16-cv-00082-K captioned *Seeligson et al. v. Devon Energy Production Co., L.P.*, pending in the United States District Court for the Northern District of Texas.

**16. Named Plaintiffs**

“Named Plaintiffs” means Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher.

**17. Net Settlement Fund**

“Net Settlement Fund” means the Gross Settlement Fund less: (1) Plaintiffs’ Counsel’s attorneys’ fees and expenses awarded by the Court; (2) any Service Awards awarded by the Court; (3) all of the Administration Expenses; (4) any other costs and expenses that the Court orders to be deducted from the Gross Settlement Fund; and (5) the amount of money attributable to the interests of Putative Class Members who have timely and properly opted out of the Class, as set forth in Section II(5)(b) below.

**18. Notice Plan**

“Notice Plan” means the process described in Section II(4) below for sending and publishing notice of the Settlement.

**19. Plaintiffs**

“Plaintiffs” means Named Plaintiffs.

**20. Plan of Allocation**

“Plan of Allocation” means the Plan of Allocation approved by the Court from which the final calculation of the Distribution Check is made that will be sent to each Class Member, as described in Section II(10) below and set forth in Exhibit 4 hereto.

**21. Putative Class Members**

“Putative Class Members” means all members of the Certified Class as defined.

**22. Residual Unclaimed Funds**

“Residual Unclaimed Funds” means any portion of the Net Settlement Fund that has not been deposited or cashed by a Class Member, including but not limited to: (i) the total amount of Distribution Checks sent to Class Members who later cannot be located by the Settlement Administrator through reasonable commercial efforts; and (ii) the amount of Distribution Checks sent to Class Members that are voided because they are not cashed or deposited within the time specified on the Distribution Check.

**23. Service Award**

“Service Award” means the monetary amount awarded by the Court to each Named Plaintiff in recognition of the Named Plaintiffs’ assistance in the prosecution of this Action. Any such Service Award shall be subject to the approval of the Court.

**24. Settlement**

“Settlement” means the settlement contemplated by this Stipulation and Agreement of Settlement.

**25. Settlement Agreement**

“Settlement Agreement” means this Stipulation and Agreement of Settlement.

**26. Settlement Administrator**

“Settlement Administrator” refers to the firm Heffler Claims Group, a third-party entity proposed by the Settling Parties and appointed by the Court to handle the administration of the Settlement consistent with this Settlement Agreement, including distribution of notice to Putative Class Members, calculating distributions to Class Members, and processing payment consistent with this Settlement Agreement.

**27. Settlement Website**

“Settlement Website” refers to a dedicated website containing further details about the substance and procedure of the proposed Settlement that shall be established, maintained, and operated by a Settlement Administrator consistent with this Settlement Agreement.

**28. Settling Parties**

“Settling Parties” means the Named Plaintiffs and DEPCO.

**II. SETTLEMENT CONSIDERATION**

It is agreed by the undersigned, on behalf of the Plaintiffs and the Certified Class, on the one hand, and Defendant, on the other, that this Litigation and all claims of the Plaintiffs and the Certified Class and counterclaims of the Defendant be settled, compromised, and dismissed with prejudice as to the Settling Parties (and, except as hereinafter provided, without costs as to Plaintiffs, the Certified Class, or Defendant), subject to Court approval, on the following terms and conditions:

**1. Certified Class**

The Court has previously certified the following class (“Certified Class” or “Class”):

All persons or entities who, between January 1, 2008 and February 28, 2014, (i) are or were royalty owners in Texas wells producing natural gas that was processed through the Bridgeport Plant by DGS; (ii) received royalties from DEPCO on such gas; (iii) had oil and gas leases that were on one of the following forms: Producers 88-198(R) Texas Paid-Up (2/93); MEC 198 (Rev. 5/77); Producers 88 (Rev. 10-70 PAS) 310; Producers 88 Revised 1-53—(With Pooling Provision); Producers 88 (2-53) With 640 Acres Pooling Provision; Producers 88 (3-54) With 640 Acres Pooling Provision; Producers 88 (4-76) Revised Paid Up with 640 Acres Pooling Provision; Producers 88 (7-69) With 640 Acres Pooling Provision; and Producers 88 (Rev. 3-42) With 40 Acres Pooling Provision (the “Class Lease Forms”); and (iv) had one or more of the oil and gas leases listed on the “Class Lease List”<sup>2</sup>.

Excluded from the Class are: (1) overriding royalty interest owners who derive their interest through the oil and gas lease; (2) all governmental entities, including federal, state, and local governments and their respective agencies, departments, or instrumentalities; (3) the States and territories of the United States or any foreign citizens, states, territories, or entities; (4) the United States of America; (5) publicly traded entities and their respective parents, affiliates, and related entities; (6) owners of any interests and/or leases located on or within any federally created units; (7) owners of any non-operating working interest for which DEPCO or its agents or representatives, as operator, disburses royalty; (8) DEPCO and any entity in which DEPCO has a controlling interest, and their officers, directors, legal representatives and assigns; and (9) members of the judiciary and their staff to whom this Action is assigned.

**2. Reasonable Best Efforts to Effectuate This Settlement**

Counsel for Plaintiffs and Defendant agree to recommend approval of this Settlement Agreement to the Court and to undertake their reasonable best efforts, including undertaking all actions contemplated by and steps necessary to effectuate this Settlement Agreement, to carry out the terms of this Settlement Agreement and to secure the prompt, complete, and final dismissal with prejudice of all claims in the Litigation.

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<sup>2</sup> The “Class Lease List” is Exhibit 5 to the Settlement Agreement and is being filed under seal herewith. The Class Lease List will be unsealed and attached to any Order granting Final Approval of the Settlement.

This includes Defendant serving notice of this proposed Settlement to the Attorney General of the United States, and to the attorneys general of each state or territory in which a Putative Class Member resides, in compliance with the attorney general notification provision of the Class Action Fairness Act, 28 U.S.C. § 1715, within ten (10) days after the Settlement Agreement is filed with the Court. The notice will include (1) a copy of the Amended Complaint, (2) a copy of this Settlement Agreement and its exhibits, and (3) a reasonable estimate of the number of Putative Class Members in each state/territory and their percentage representation in the Class. Defendant shall provide copies of such notifications to Class Counsel at the time of their submission to the attorneys general.

**3. Motion for Preliminary Approval of the Settlement**

Plaintiffs shall submit to the Court—and Defendant shall support—a motion (the “Motion”) requesting entry of an order preliminarily approving the Settlement, and authorizing dissemination of notice to the Certified Class (the “Preliminary Approval Order”) substantially in the form of Exhibit 6 hereto. The Motion shall:

- a. request preliminary approval of the Settlement set forth in this Settlement Agreement as fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23, and in the best interests of the Class;
- b. request a stay of all proceedings in the Litigation, except those proceedings provided for or required by this Settlement Agreement;
- c. seek approval for direct mail notice to the Class by means of the Summary Notice and publication of the Summary Notice in the Dallas, Tarrant, Denton, and Wise County local newspapers, in substantially the same form as Exhibit 1 and publication of the Long Form Class Notice on a Settlement Website, in substantially the same form as Exhibit 2; and

- d. include a proposed form of order, which includes such provisions as are typical in such orders, including a finding that the proposed notice plan complies with Rule 23 and the requirements of due process, and a provision that if preliminary or final approval of the Settlement is not obtained, the Settlement is null and void and the Settling Parties will revert to their positions *ex ante* without prejudice to their rights, claims, or defenses.

**4. Notice Plan**

- a. The Settlement Administrator will supervise and administer the Notice Plan.
- b. Defendant agrees to provide all information reasonably necessary (including, without limitation, supporting declarations) for the Settlement Administrator to issue notice to each Putative Class Member and for Plaintiffs' Counsel and their experts to finalize the Plan of Allocation.

c. The Settlement Administrator shall, not later than twenty-one (21) calendar days after entry of the Preliminary Approval Order: (i) send through the United States mail, by first-class mail, postage prepaid, the Summary Notice substantially in the form attached as Exhibit 1 on a postcard to each royalty owner identified in the information provided by Defendant as set forth in Paragraph 4(b) above or who may otherwise be identified with reasonable effort (the date on which the mailing of the Summary Notice occurs shall be referred to herein as the "Notice Date"), and (ii) send through email the Summary Notice to each royalty owner with an e-mail address identified in the information provided by Defendant as set forth in Paragraph 4(b) above.

d. Contemporaneously with the mailing of the Summary Notice, the Settlement Administrator shall cause the Summary Notice to be published in the Dallas, Fort Worth, Denton, and Wise County local newspapers.

e. Contemporaneously with the mailing of the Summary Notice, the Settlement Administrator shall cause a copy of the Long Form Class Notice substantially in the form attached



as Exhibit 2 to be posted on the website designed for this lawsuit, <http://www.seeligsonsettlement.com>, from which Putative Class Members may download a copy of the Long Form Class Notice, and certain other filings in this case.

f. For any Summary Notices that are returned as undeliverable, the Settlement Administrator shall perform skip tracing, and re-mail the postcards to any new addresses discovered through the skip tracing process.

g. Class Notice shall inform recipients that if they owned any royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant between January 1, 2008 and the February 28, 2014, but no longer own such interest, they must notify the Settlement Administrator or Class Counsel within forty-five (45) calendar days of the Notice Date whether they retained any rights to any proceeds of this Litigation; if not, any proceeds from the Settlement will be paid to the royalty owner as reflected in DEPCO's pay histories for such interest as of the February 2014 production month, or last production month in time prior thereto.

h. The deadline for requesting to opt out of the Class shall be no later than forty-five (45) calendar days after the Notice Date ("Opt-Out Deadline").

i. The deadline for filing an objection to the Settlement shall be no later than ninety (90) calendar days after the Notice Date ("Objection Deadline").

j. No later than seven (7) calendar days before the Fairness Hearing, Class Counsel shall file with the Court a declaration containing proof of mailing, e-mailing, and publishing of the Summary Notice, and setting forth a list of all persons and entities who have requested to opt out of the Class and serve copies of the same on all parties.

k. Neither Defendant, Defendant's counsel, Plaintiffs, the Class, nor Plaintiffs' Counsel shall have any liability for failure for notice of the Settlement to reach any Putative Class Member.

**5. Response to Class Notice**

**a. Objection to Settlement.** Any Class Member who intends to object to any aspect of the Settlement must, by the date specified in the Preliminary Approval Order and recited in the Class Notice, file any such objection with the Court, and provide copies of the objection to:

Geoffrey C. Jarvis  
Melissa L. Troutner  
KESSLER TOPAZ MELTZER & CHECK, LLP  
280 King of Prussia Road  
Radnor, PA 19087  
Tel: (610) 667-7706  
Fax: (610) 667-7056  
Email: gjarvis@ktmc.com  
Email: mtroutner@ktmc.com

-and-

Craig A. Haynes  
P. Jefferson Ballew  
Rachelle H. Glazer  
Julie Abernethy  
THOMPSON & KNIGHT LLP  
1722 Routh Street, Suite 1500  
Dallas, TX 75201  
Tel: (214) 969-1700  
Fax: (214) 969-1751  
Email: Craig.Haynes@tklaw.com  
Email: Jeff.Ballew@tklaw.com  
Email: Rachelle.Glazer@tklaw.com  
Email: Julie.Abernethy@tklaw.com

Any objection to the Settlement must be individually and personally signed by the Class Member submitting it (if the Class Member is represented by counsel, the objection must also be signed by such counsel), and must include:

- The objecting Class Member’s full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address;
- A copy of the Class Member’s oil and gas lease;
- A written statement of all grounds for the objection, accompanied by any legal support for the objection;
- Copies of any papers, briefs, or other documents upon which the objection is based;
- The name, address, email address, and telephone number of every attorney representing the objector; and
- A statement indicating whether the objector and/or his or her counsel intends to appear at the Fairness Hearing and, if so, a list of all persons, if any, who will be called to testify in support of the objection.

**b. Opt Out Requests.** Any Putative Class Member who does not wish to remain in the Class must submit a request to opt out of the Class (“Opt Out Request”) to the Settlement Administrator at the address specified in the Class Notice by the date specified in the Preliminary Approval Order and recited in the Class Notice. To be effective, the Opt Out Request must be sent via first-class U.S. mail to the specified address and:

- Include the Class Member’s full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address;
- Explicitly and unambiguously state his or her desire to opt out of the Class in *Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher v. Devon Energy Production Company, L.P.*, Civil Action No. 3:16-cv-00082-K (N.D. Tex.); and
- Be individually and personally signed by the Putative Class Member (if the Putative Class Member is represented by counsel, it must also be signed by such counsel).

Any Putative Class Member who fails to send a timely and complete Opt Out Request to the proper address, shall be subject to and bound by this Settlement Agreement and every order or judgment entered in the Litigation. Any purported Opt Out Request or other communication sent to such address that is unclear or internally inconsistent with respect to the Class Member's desire to opt out of the Class will be deemed invalid unless determined otherwise by the Court.

Any communication from a Putative Class Member (whether styled as an Opt Out Request, an objection, or a comment) as to which it is not readily apparent that the Putative Class Member meant to opt himself or herself out of the Class will be evaluated jointly by Class Counsel and DEPCO's counsel, who will make a good faith evaluation, if possible, of the Putative Class Member's intentions. Any uncertainties about whether a Putative Class Member is requesting to opt out of the Class will ultimately be resolved by the Court.

The Settlement Administrator will maintain a list of all Opt Out Requests. The Settlement Administrator shall report the full name, owner number or Bus Assoc #, mailing address, telephone number, and email address of all such entities and natural persons requesting to opt out of the Class to DEPCO and Class Counsel sixty (60) calendar days after the Notice date and to the Court seven (7) calendar days prior to the Fairness Hearing, and the list of entities and natural persons deemed by the Court to have opted themselves out of the Class will be attached as an exhibit to the Final Order and Judgment.

Neither Defendant, Defendant's Counsel, nor anyone acting on behalf of said persons or entities shall encourage anyone to submit an Opt Out Request.

In addition to the grounds set forth in Paragraph 15 below, DEPCO, in its sole discretion and at its sole option, reserves the right, but not the obligation, to terminate the Settlement Agreement and render the Settlement Agreement null and void as to all Settling Parties, in the

event that Putative Class Members who have timely and validly requested to opt out of the Class meet the conditions set forth in the Settling Parties' confidential supplemental agreement (the "Supplemental Agreement"), in accordance with the terms of that agreement. The Supplemental Agreement, which is being executed concurrently herewith, shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Long Form Class Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless and until the Court otherwise directs or a dispute arises concerning its interpretation or application.

Any monies allocated to volumes of Opt Out Requests shall be returned to Defendant at the time Distribution Checks are sent to Class Members.

**c. Persons Objecting to the Settlement.** Neither Defendant nor the Class shall be responsible for attorneys' fees, costs, or expenses related to any Class Members who submit objections to the Settlement or any appeal by an objector arising from the Litigation for attorneys' fees, costs, or expenses of any kind.

**6. Motion for Final Approval and Entry of Final Judgment**

If the Court preliminarily approves this Settlement Agreement, Plaintiffs shall submit—and Defendant shall support—a motion for final approval by the Court of this Settlement Agreement ("Final Approval Motion") after notice has been disseminated to the Class pursuant to the Preliminary Approval Order. The Final Approval Motion shall be submitted to the Court no later than seventy-five (75) calendar days after the Notice date and fourteen (15) calendar days before the deadline for submitting objections set by the Court in its Preliminary Approval Order and shall seek entry of the Final Order and Judgment substantially in the form attached hereto as Exhibit 3:

- a. finding this Settlement Agreement and its terms to be a fair, reasonable, and adequate settlement as to Plaintiffs and the Certified Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation pursuant to its terms;
- b. finding that Class Members and DEPCO shall be bound by this Settlement Agreement, including the release provisions and covenant not to sue set forth in this Settlement Agreement;
- c. finding that notice given to the Class constitutes due, adequate, and sufficient notice and meets the requirements of due process and the Federal Rules of Civil Procedure;
- d. incorporating the release set forth in Paragraph 14 of this Settlement Agreement, and forever barring the Releasors from asserting any Released Claims against any of the Releasees as defined below;
- e. providing for the payment of reasonable attorneys' fees and expenses solely from the Settlement Fund;
- f. providing for payment solely from the Settlement Fund of a Service Award in the aggregate amount of \$80,000 to be allocated equally among the Named Plaintiffs, in addition to whatever monies each may receive from the Settlement Fund pursuant to a Court-approved plan of allocation;
- g. providing for the payment of Administration Fees, including those reasonably anticipated to incur after the entry of the Final Order and Judgment, solely from the Settlement Fund;
- h. directing that the Litigation be dismissed with prejudice and, except as provided for herein, without costs or attorney's fees recoverable;

- i. retaining exclusive jurisdiction over the Settlement and the Settlement Agreement, including the administration and consummation of the Settlement; and
- j. directing that the judgment of dismissal with prejudice of the Action shall be final and appealable pursuant to Fed. R. Civ. P. 54(b), there being no just reason for delay.

**7. Finality of Settlement**

This Settlement Agreement shall become final upon the occurrence of all of the following (the “Effective Date”):

- a. The Settlement is not terminated pursuant to Paragraph 15 below;
- b. The Settlement and this Settlement Agreement are approved by the Court as required by Rule 23(e) of the Federal Rules of Civil Procedure;
- c. The Court enters an order finally approving the Settlement and dismissing the Litigation with prejudice substantially in the form attached hereto as the Final Order and Judgment; and
- d. The time for appeal from the Court’s entry of the Final Order and Judgment has expired or, if the Final Order and Judgment is appealed, it has been resolved by agreement and withdrawn by the appealing party, or it has been affirmed by the court of last resort to which an appeal of such Final Order and Judgment may be taken.

**8. The Settlement Payment**

Within ten (10) business days following entry of the Preliminary Approval Order or within ten (10) business days of DEPCO being provided the necessary information regarding the identity and wiring instructions for the escrow agent, whichever is later, DEPCO shall deposit twenty-eight million dollars (\$28,000,000.00) (the “Settlement Amount”) in the designated account (the “Settlement Fund”), which shall be held in escrow (the “Escrow Account”) subject to the terms and conditions of the escrow agreement (the “Escrow Agreement”), and in accordance with the

provisions of Paragraphs 9 and 18 below. Payment shall be made by wire transfer pursuant to instructions from Class Counsel. Defendant shall not pay any additional amount thereafter, whether for wire transfer fees or bank fees of any kind associated with the wire transfer of funds, interest, notice, administration, costs, attorneys' fees, or otherwise, into the Escrow Account. The total consideration that Defendant will pay for this Settlement shall be the "Settlement Amount."

**9. The Settlement Fund**

Notwithstanding the fact that the Effective Date of Settlement has not yet occurred, Class Counsel may pay from the Settlement Fund, without further approval from Defendant or further order of the Court, all expenses associated with providing notice of the Settlement to the Class, expenses associated with allocating and administering the Settlement, and any payments and expenses incurred in connection with taxation matters relating to the Settlement and this Settlement Agreement (collectively, "Administration Expenses"). Provided, however, if at any time prior to the Effective Date of Settlement Administration Expenses exceed an aggregate \$100,000, Class Counsel shall obtain Court Approval prior to paying any additional Administration Expenses. In the event the Settlement Agreement is disapproved, terminated, or otherwise fails to become effective, the Settlement Fund shall be refunded to Defendant plus interest earned in the Escrow Account (net of any taxes paid on such interest), minus any Administration Expenses paid or incurred.

At all times prior to the Effective Date of Settlement, the Settlement Fund shall be invested as set forth in Paragraph 3 of the Escrow Agreement, in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Money Market Fund or a bank account insured by the Federal Deposit Insurance Corporation ("FDIC") up to the guaranteed FDIC limit. After the Effective Date of Settlement, the Settlement Fund shall be invested pursuant to Paragraph 3 of the



Escrow Agreement as directed in writing by Class Counsel. All interest and dividends earned on the Settlement Fund shall become and remain part of the Settlement Fund. Any losses on the Settlement Fund shall be borne by the Settlement Fund and shall not be recoverable from Defendant. Defendant shall have no liability, obligation, or responsibility of any kind in connection with the investment, disbursement, or other oversight of the Settlement Fund.

After the Effective Date of Settlement, the Settlement Fund shall be distributed in accordance with the Plan of Allocation (as defined in Paragraph 10). After making the payment described in Section II(8) above, Defendant shall have no responsibility whatsoever for the allocation or distribution of the Settlement Fund and shall not be responsible for any disputes relating to the amount, allocation, or distribution of any fees, costs, or awards. Further, after making the payment described in Section II(8) above, Defendant shall not be liable for any additional payments to the Class or Class Counsel pursuant to this Settlement Agreement.

Defendant shall have no right of reimbursement or repayment from the Settlement Fund except as set forth in Paragraph 16 hereof.

Plaintiffs and counsel for the Class shall be reimbursed and indemnified solely out of the Settlement Fund for all expenses. Defendant shall not be liable for any costs, attorneys' fees, other fees, or expenses of any of Plaintiffs' or the Class's respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as approved by the Court shall be paid out of the Settlement Fund.

To the extent that there is any ambiguity or inconsistency concerning disbursements when this Settlement Agreement and the Escrow Agreement are read together, the terms of this Settlement Agreement shall control.

Except in the case of willful and intentional malfeasance of a dishonest nature directly causing such loss, Plaintiffs' Counsel, Plaintiffs, the Certified Class, and the Released Parties (other than the Defendant Releasees) shall have no liability for loss of any portion of the Gross or Net Settlement Fund under any circumstances and, in the event of such malfeasance, only the party whose malfeasance directly caused the loss has any liability for the portion of the Gross or Net Settlement Fund lost. Defendant Releasees shall have not liability or responsibility whatsoever for the Gross or Net Settlement Funds once it has paid them into escrow.

**10. Plan of Allocation**

Distribution of the Settlement Fund shall be conducted according to the Plan of Allocation attached hereto as Exhibit 4 (the "Plan of Allocation"), subject to Court approval.

**11. No Injunctive Relief**

This Settlement Agreement does not include any provisions for injunctive relief.

**12. Full Satisfaction; Limitation of Interest and Liability**

Class Members shall look solely to the Settlement Fund for settlement and satisfaction against Defendant of all claims that are released hereunder. Except as provided by order of the Court, no Class Member shall have any interest in the Settlement Fund or any portion thereof.

**13. Attorneys' Fees and Expenses**

Class Counsel intend to seek, solely from the Settlement Fund, attorneys' fees of up to one-third of the Settlement Fund (including interest accrued thereon) and the reimbursement of reasonable costs and expenses incurred in the prosecution of the Action, and Service Awards to the Named Plaintiffs ("Fee and Expense Award"). Class Counsel shall file a motion for approval of the Fee and Expense Award ("Motion for Fee and Expense Award") approximately fourteen (14) calendar days prior to the date set forth in the Preliminary Approval Order as the deadline for objections. The various counsel for the Class, including Class Counsel, shall be reimbursed and

paid solely out of the Settlement Fund for all such fees and expenses. Plaintiffs, Class Members, and their respective counsel, shall not seek payment of any attorneys' fees, expenses, costs, or Service Awards from Defendant in this Action, or in any other action related to the released claims set forth in Paragraph 14 hereof, from any source other than the Settlement Fund.

The procedures for and the allowance or disallowance by the Court of the application by Class Counsel for attorneys' fees, costs, and expenses to be paid out of the Settlement Fund are not part of this Settlement Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement. Notwithstanding any right of termination in Paragraph 15 hereof, any order or proceeding relating to the Fee and Expense Award, or any appeal from any such order, shall not operate to terminate or cancel this Settlement Agreement, provide a basis to terminate or cancel this Settlement Agreement, affect or delay the finality of the judgment approving the Settlement, or affect or delay the payment of the Fee and Expense Award as provided in Paragraph 13.

Any attorneys' fees, costs and expenses awarded to counsel for the Class from the Settlement Fund shall be paid to Class Counsel within thirty (30) calendar days upon the Court's granting of final approval of the settlement, notwithstanding the existence of any timely filed objections thereto, or potential for appeal therefrom, or collateral attack on the Settlement or any part thereof, subject to Class Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund, plus accrued interest at the same net rate as is earned by the Settlement Fund, if the Settlement is terminated pursuant to the terms of this Settlement Agreement or if, as a result of any appeal or further proceedings on remand, or successful collateral attack, the award of attorneys' fees, costs and expenses is reduced or reversed and such order reducing or reversing the award has become final. If the Court's award of such fees and expenses is vacated, reversed, or

reduced subsequent to the disbursement of any Fee and Expense Award, Class Counsel shall within ten (10) calendar days after receiving written notice from the Court or from Defendant of such vacatur, reversal, or reduction, make a refund to the Escrow Account in the amount of such vacatur, reversal, or reduction.

Class Counsel shall allocate the attorneys' fees awarded among counsel in a manner in which they, in good faith, believe reflects the contributions of such counsel to the institution, prosecution, and resolution of the Litigation. Defendant shall have no responsibility or liability whatsoever with respect to the allocation of attorneys' fees or expenses.

#### **14. Releases**

**a. Class Release.** Upon the occurrence of the Effective Date and in consideration of payment of the Settlement Amount specified in Paragraph 8 above, Plaintiffs and all Class Members, whether or not they object to the Settlement and whether or not they participate in the Settlement Fund, on behalf of themselves and their respective past, present, and future parents, subsidiaries, associates, affiliates, officers, directors, employees, insurers, general or limited partners, divisions, agents, attorneys, servants, trustees, joint ventures, heirs, executors, administrators, representatives (and the parents', subsidiaries', and affiliates' past and present officers, directors, employees, agents, attorneys, servants, and representatives), and their predecessors, successors, heirs, executors, administrators, and representatives, as well as assignees of any of the above, (collectively, the "Class Releasers"), hereby release and forever discharge, and covenant not to sue, DEPCO, and its past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management, supervisory boards, insurers, general or limited partners, employees, agents, attorneys, servants, representatives (and the parents', subsidiaries', and affiliates' past, present, and future officers, directors, employees, agents, attorneys, servants, and representatives), including but not limited to Devon Energy

Corporation and Devon Gas Services, LP, and the predecessors, successors, heirs, executors, administrators and representatives of each of the foregoing, as well as assignees of any of the above (collectively, the “Defendant Releasees”) from all manner of claims, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties, and attorneys’ fees, under federal or state laws, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, contingent or non-contingent, in law or equity, whether asserted in this Litigation or not, concerning the underpayment of royalties relating to the processing of gas through the Bridgeport Plant or the sale price of gas or charges under the Gas Purchase and Processing Agreement during the Class Period where such royalties were paid pursuant to a lease listed on the Class Lease List. The Class Release does not include (i) any claims relating to the enforcement of the Settlement; and (ii) any claims of any person or entity who or which submits an Opt Out Request that is accepted by the Court.

**b. Defendant’s Release.** Upon the occurrence of the Effective Date and in consideration of the Releases specified in Paragraph 14(a) above, Defendant on behalf of itself and its respective past, present, and future parents, subsidiaries, associates, affiliates, officers, directors, employees, insurers, general or limited partners, divisions, agents, attorneys, servants, trustees, joint ventures, heirs, executors, administrators, representatives (and the parents’, subsidiaries’, and affiliates’ past and present officers, directors, employees, agents, attorneys, servants, and representatives), including but not limited to DEC and DGS, and their predecessors, successors, heirs, executors, administrators, and representatives, as well as assignees of any of the above (collectively, the “Defendant Releasers”), hereby release and forever discharge, and covenant not to sue, Plaintiffs and all Class Members and their past, present, and future parents, subsidiaries, divisions, affiliates, joint ventures, stockholders, officers, directors, management,

supervisory boards, insurers, general or limited partners, employees, agents, attorneys, servants, representatives (and the parents', subsidiaries', and affiliates' past, present, and future officers, directors, employees, agents, attorneys, servants, and representatives), and the predecessors, successors, heirs, executors, administrators and representatives of each of the foregoing, as well as assignees of any of the above (collectively, the "Class Releasees") from all claims, debts, obligations, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties, and attorneys' fees, under federal or state laws, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, contingent or non-contingent, in law or equity, concerning the alleged underpayment of royalties asserted by Plaintiffs in this Litigation during the Class Period and the subject matter of the counterclaims asserted by Defendant in this Litigation during the Class Period. Defendant's Release does not include (i) any claims relating to the enforcement of the Settlement and (ii) any claims against any person or entity who or which submits an Opt Out Request that is accepted by the Court.

This Settlement Agreement is not intended to release anyone other than the Defendant Releasees and the Class Releasees, and is not on behalf of anyone other than the Class Releasers or Defendant Releasers.

No person or entity shall have any claim against Named Plaintiffs, Plaintiffs' Counsel, the Settlement Administrator, Energy Litigation Services Group, LLC, Daniel T. Reineke, or any other agent designated by Class Counsel, or the Defendant's Releasees and/or their respective counsel, arising from distributions made substantially in accordance with the Settlement Agreement, the Plan of Allocation approved by the Court, or any order of the Court. Named Plaintiffs and the Defendant, and their respective counsel, and Named Plaintiffs' damages experts and all other

Defendant and Class Releasees shall have no liability whatsoever for the investment or distribution of the Settlement Fund or the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Distribution Check or nonperformance of the Settlement Administrator, the payment or withholding of taxes (including interest and penalties) owed by the Settlement Fund, or any losses incurred in connection therewith.

Defendant further agrees that, upon the Effective Date of Settlement, it will not make out-of-period adjustments for the purpose of directly or indirectly clawing back, recouping or reversing the monies paid by Defendant under this Settlement Agreement.

**15. Termination**

If the Court declines to grant preliminary or final approval of the Settlement Agreement or if for any reason the Settlement does not become final in accordance with the terms of this Settlement Agreement or the Supplemental Agreement, then (i) this Settlement Agreement shall be of no force or effect; (ii) all funds paid by Defendant into the Settlement Fund, plus interest (net of any taxes paid on such interest), minus the Administration Expenses paid or incurred, shall be returned to Defendant; (iii) any release pursuant to Paragraph 14 above shall be of no force or effect; and (iv) the Settling Parties agree, subject to the Court's approval, that litigation will resume, in a reasonable manner and on a reasonable timetable to be approved by the Court.

For the avoidance of doubt, any order of the Court that (i) narrows or does not approve the scope of the release and covenant not to sue contemplated by this Settlement, (ii) purports to impose additional material obligations on Defendant, or (iii) declines to enter a final judgment that meets the minimum requirements set forth in Paragraph 6 of this Settlement Agreement, or any order on review or appeal that would have the foregoing effects, except as otherwise agreed to in writing by Defendant and Plaintiffs, constitutes a failure to grant preliminary or final approval of

this Settlement Agreement and confers on Defendant and Plaintiffs the right to terminate provided by this Paragraph.

A modification or reversal on appeal of any amount of the Fee and Expense Award shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or such Final Order and Judgment and shall not give rise to any right of termination.

**16. Reimbursement of the Settlement Fund Upon Termination**

If this Settlement Agreement is terminated pursuant to the provisions of Paragraph 15 above or pursuant to the Supplemental Agreement, the Escrow Agent shall return the Settlement Fund—including any Fee and Expense Award paid to Class Counsel—to Defendant, plus interest (net of any taxes paid on such interest), minus the Administration Expenses paid or incurred. Subject only to expiration of any time deposit investment(s) not to exceed ninety (90) days, the Escrow Agent shall disburse the Settlement Fund, minus the deductions mentioned above, to Defendant in accordance with this Paragraph within fifteen (15) business days after receipt of either (i) written notice signed by Defendant's counsel or Class Counsel stating that this Settlement Agreement has been terminated, or (ii) any order of the Court so directing. Any remaining portion of the Net Settlement Fund invested in time deposits not to exceed ninety (90) days shall be disbursed within ten (10) calendar days after the expiration of such investments. If the Settlement Agreement is terminated pursuant to Paragraph 15 above, any obligations pursuant to this Settlement Agreement (other than disbursement of the Net Settlement Fund to Defendant as set forth above) shall cease immediately and the releases set forth in Paragraph 14 shall be null and void.

**17. Preservation of Rights**

The Settling Parties agree that this Settlement Agreement, whether it becomes final or not, and any and all negotiations, documents and discussions associated with it shall be without



prejudice to the rights of any party (except to the extent provided herein), shall not be deemed or construed to be an admission or evidence of any violation of any statute or law (or lack thereof), of any liability or wrongdoing by Defendant (or lack thereof), or of the truth (or lack thereof) of any of the claims or allegations contained in the complaints filed in the Litigation or any other pleading or document, and evidence thereof shall not be discoverable or used directly or indirectly, in any way (other than to effectuate or enforce the terms of this Settlement Agreement). The Settling Parties expressly reserve all of their rights if the Settlement does not become final in accordance with the terms of this Settlement Agreement.

#### **18. Taxes**

The Settling Parties intend that any taxes due as a result of income earned by the Settlement Fund will be paid from the Settlement Fund. Class Counsel shall be solely responsible for directing the Escrow Agent to file all informational and other tax returns necessary to report any taxable and/or net taxable income earned by the Settlement Fund. Further, Class Counsel shall be solely responsible for directing the Escrow Agent to make any tax payments, including interest and penalties due, on income earned by the Settlement Fund. Class Counsel shall be entitled to direct the Escrow Agent to pay from the Escrow Account customary and reasonable tax expenses, including professional fees and expenses incurred in connection with carrying out the Escrow Agent's or tax preparer's responsibilities as set forth in this Paragraph. Defendant shall have no responsibility to make any tax filings related to the Settlement, this Settlement Agreement, or the Settlement Fund, and shall have no responsibility to pay taxes on any income earned by the Settlement Fund, or to pay taxes with respect thereto unless the Settlement is not consummated and the Settlement Fund or the Net Settlement Fund is returned to Defendant. Other than as specifically set forth herein, Defendant shall have no responsibility for the payment of taxes or tax-related expenses. If, for any reason, for any period of time, Defendant is required to pay taxes on

income earned by the Settlement Fund, the Escrow Agent shall, upon written instructions from Defendant with notice to Class Counsel, timely pay to Defendant sufficient monies from the Settlement Fund to enable it to pay all taxes (state, federal, or other) on income earned by the Settlement Fund.

For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “Administrator” of the Escrow Account shall be the Settlement Administrator, who shall timely and properly file or cause to be filed on a timely basis, all tax returns necessary or advisable with respect to the Escrow Account (including without limitation all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B-2(1)).

The Settling Parties and their counsel shall treat, and shall cause the Escrow Agent to treat, the Settlement Fund as being at all times a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1. The Settling Parties, their counsel, and the Escrow Agent agree that they will not ask the Court to take any action inconsistent with the treatment of the Escrow Account in this manner. In addition, the Escrow Agent and, as required, the Settling Parties shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph, including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Escrow Account being a “qualified settlement fund” within the meaning of Treas. Reg. § 1.468B-1.

All income taxes, if any, incurred on the part of Class Members in connection with the implementation of this Settlement Agreement shall be reported and paid by the individual Class Members to the extent of their individual tax liability on proceeds they individually receive. Except for any amounts withheld for tax purposes by the Settlement Administrator, the individual Class Members are solely responsible for the payment of any and all taxes attributable to payments made to them under this Settlement Agreement. Named Plaintiffs, Plaintiffs' Counsel, Defendant, Defendant's Counsel, the Gross Settlement Fund, and the Settlement Administrator shall have no responsibility or liability whatsoever for any such payments. Defendant, Defendant's Counsel, and Class Members will bear no responsibility for any taxes due on Class Counsel's attorney's fees or any reimbursement of expenses and such taxes will not be paid from the Escrow Account. Named Plaintiffs are solely responsible for any taxes due on any Service Award. Plaintiffs' Counsel are responsible for and shall bear any taxes due on their attorneys' fees and/or due on reimbursement of expenses. The Class Members, Plaintiffs' Counsel and Named Plaintiffs shall indemnify and hold all Released Parties, Defendant and Defendant's Counsel harmless from and against any liability for any taxes, interest, penalties and related expenses of any kind whatsoever related to the payments they receive under this Settlement Agreement. The Settlement Fund shall indemnify and hold the Defendant harmless for any taxes that may be deemed to be payable by the Defendant by reason of the income earned on the Settlement Fund, and Escrow Agent, as directed by Plaintiffs' Counsel, shall establish such reserves as are necessary to cover the tax liabilities of the Settlement Fund and the indemnification obligations imposed by this paragraph. If the Settlement Fund is returned to the Defendant pursuant to the terms of the Settlement Agreement, the Defendant shall provide Escrow Agent with a properly completed Form W-9.

All distributions shall be subject to any required federal, state or local income tax withholding, which the Settlement Administrator shall withhold and pay to the appropriate taxing authorities. The Settlement Administrator shall prepare, file and provide IRS Forms 1099-MISC to Class Members, or, in the event a form 1099-MISC is not required, an explanation of such payment. In the event Forms 1099-MISC are not filed by the Settlement Administrator, the Settlement Administrator is solely responsible for paying any resulting taxes, interest or penalties associated with such failure to file Forms 1099-MISC. In the event a Distribution Check is not cashed or is returned to the Settlement Administrator, such that a Class Member does not receive payment of the amount distributed, the Settlement Administrator shall make reasonable efforts to identify a correct address for such Class Member and shall request a refund from the taxing authority to whom any withheld taxes were paid on behalf of the Class Member who did not receive payment, and any such refunds will become part of the Residual Unclaimed Funds.

The Settling Parties agree that Defendant, Defendant's Counsel, and Plaintiffs' Counsel have no responsibility or liability for any severance taxes or other taxes that any person or entity may later claim to be due on the amounts disbursed to the Class Members from the Escrow Account.

**19. Binding Effect**

This Settlement Agreement shall be binding upon, and inure to the benefit of, the Settling Parties, the Class Releasees, and the Defendant Releasees. Without limiting the generality of the foregoing, each and every covenant and agreement herein by the Plaintiffs and their counsel shall be binding upon all Class Members.

**20. Headings**

The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

**21. No Party is the Drafter**

None of the parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

**22. Choice of Law**

All terms of this Settlement Agreement shall be governed by Texas state law.

**23. Consent to Jurisdiction**

Defendant and each Class Member hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Northern District of Texas for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. Nothing in this Paragraph shall prohibit (a) the assertion in any forum in which a claim is brought that any release herein is a defense, in whole or in part, to such claim or (b) in the event that such a defense is asserted in such forum, the determination of its merits in that forum.

**24. Representations and Warranties**

Each party hereto represents and warrants to each other party hereto that it has the requisite authority (or in the case of natural persons, the legal capacity) to execute, deliver, and perform this Settlement Agreement and to consummate the transactions contemplated hereby.

**25. Notice**

Notice to Defendant pursuant to this Settlement Agreement shall be sent by United States mail and electronic mail to:

Craig A. Haynes  
P. Jefferson Ballew  
Rachelle H. Glazer

Julie Abernethy  
THOMPSON & KNIGHT LLP  
1722 Routh Street, Suite 1500  
Dallas, TX 75201  
Tel: (214) 969-1700  
Fax: (214) 969-1751  
Email: Craig.Haynes@tklaw.com  
Email: Jeff.Ballew@tklaw.com  
Email: Rachele.Glazer@tklaw.com  
Email: Julie.Abernethy@tklaw.com

Notice to the Plaintiffs pursuant to this Settlement Agreement shall be sent by United States mail and electronic mail to Class Counsel:

Geoffrey C. Jarvis  
Melissa L. Troutner  
KESSLER TOPAZ MELTZER & CHECK, LLP  
280 King of Prussia Road  
Radnor, PA 19087  
Tel: (610) 667-7706  
Fax: (610) 667-7056  
Email: gjarvis@ktmc.com  
Email: mtroutner@ktmc.com

Any of the parties may, from time to time, change the address to which such notices, requests, consents, directives, or communications are to be delivered, by giving the other parties prior written notice of the changed address, in the manner hereinabove provided, ten (10) calendar days before the change is effective.

**26. Execution in Counterparts**

This Settlement Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

**27. No Press Release**

No press release will be issued by the Settling Parties or Class Counsel, without the written approval of Defendant. The Settling Parties and Class Counsel will not seek out the press to discuss this Settlement Agreement or any of the terms hereof, and if contacted by the press, will

simply respond in substance that the Settling Parties have agreed to settle this dispute to avoid litigation, to resolve any disputes, and that the settlement is not an admission of liability by any of the Settling Parties.

**28. Confidentiality**

Whether or not the Settlement Agreement is approved by the Court and whether or not the Settlement Agreement is consummated, or the Effective Date of Settlement occurs, the Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings in connection with the Settlement Agreement confidential, other than those necessary for full disclosure to the Court and the Settlement Class, and except (i) to the extent required by law, court order, or the SEC, (ii) as may be necessary to utilize the services of their personal accountants and attorneys, (iii) to any of the Parties' respective existing and new limited partners and potential investors, and (iv) to any successor, assignee or purchaser or potential purchaser of any interests affected by the Settlement Agreement's terms; (v) to officers or directors of the Parties; or (vi) reporting information required by taxing or governmental authorities. If contacted by any person or entity that is not authorized by this paragraph to receive information about this Settlement Agreement, any of its terms, or any negotiations related thereto, a Party or its authorized representative may respond in substance that the Parties have agreed to settle this dispute to avoid litigation, to resolve any disputes, and that the settlement is not an admission of liability by any of the Parties. All agreements made and orders entered during the course of this Action relating to the confidentiality of information shall survive this Settlement, and all documents produced to the Parties during discovery shall either be returned or destroyed as provided in the applicable Protective Order once this settlement is consummated.

**29. Exhibits**

All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Settlement Agreement and the terms of any exhibit attached hereto, the terms of the Settlement Agreement shall prevail.

**30. Integrated Agreement**

Except with respect to the confidential Supplemental Agreement, which is being executed concurrently herewith, this Settlement Agreement, its exhibits, and the Supplemental Agreement constitute the entire agreement among the Settling Parties concerning the Settlement and this Settlement Agreement and its exhibits. All Parties acknowledge that no other agreements, representations, warranties, or inducements have been made by any Party hereto concerning this Settlement Agreement or its exhibits other than those contained and memorialized in such documents, including the Supplemental Agreement.



IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Stipulation and Agreement of Settlement as of the date first herein above written.



David Harris

*Executive Vice President Exploration & Production, Devon Energy Production Company, L.P.*

Craig A. Haynes

Texas Bar No. 09284020

**THOMPSON & KNIGHT LLP**

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Fax: (610) 667-7056

Email: gjarvis@ktmc.com

Email: mtroutner@ktmc.com

IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Stipulation and Agreement of Settlement as of the date first herein above written.

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David Harris

***Executive Vice President Exploration & Production, Devon Energy Production Company, L.P.***



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***Counsel for Defendant***

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IN WITNESS WHEREOF, the parties hereto through their fully authorized representatives have agreed to this Stipulation and Agreement of Settlement as of the date first herein above written.

\_\_\_\_\_  
David Harris

*Executive Vice President Exploration & Production, Devon Energy Production Company, L.P.*

\_\_\_\_\_  
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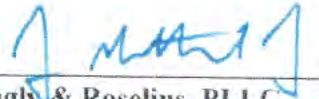
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 / NL with permission

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*Local Counsel for Plaintiffs and the  
Certified Class*

# EXHIBIT 1



**If you are or were a royalty owner and received payments from Devon Energy Production Company from one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant, you may be entitled to benefits afforded by a class action settlement.**

A proposed class action settlement (“Settlement”) has been reached in a lawsuit against Devon Energy Production Company (“DEPCO”) concerning the calculation of royalty payments for wells producing natural gas processed at the Bridgeport Gas Processing Plant. DEPCO has denied, and continues to deny, any wrongdoing or liability whatsoever. The Settlement resolves the lawsuit and provides benefits to Class Members. **This notice provides basic information. You should review the detailed notice (“Long-Form Notice”) found on the website, [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com), for more information.**

**Am I Involved?** You may be a member of the Court-certified Class if you are or were a royalty owner in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP, an affiliate of DEPCO, between January 1, 2008 and February 28, 2014 and received royalties from DEPCO on such gas. For more information regarding who is a member of the Class, please review the Long-Form Notice.

**What does the Settlement provide?** Pursuant to the Settlement, DEPCO will pay \$28 million in cash into a settlement fund to resolve the lawsuit. This amount, plus accrued interest, after deductions based on opt out requests received and the deduction of Court-awarded attorneys’ fees and expenses, notice and administration costs, and taxes, will be allocated among Class Members, in exchange for the settlement of the lawsuit and the release of all claims asserted in the lawsuit and related claims.

**Do I Need An Attorney?** The Court has appointed lawyers to represent the Class in this lawsuit. Class Members will not be obligated to pay any of the attorneys’ fees, expenses or costs for these lawyers. You may hire your own attorney, at your own expense.

**What are my options?** If you are a Class Member and want to receive benefits that may come if the Settlement is approved, you do not need to take any further action (however, if you owned royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant, but transferred your interest, see Section \_\_\_ in the Long-Form Notice). If you are eligible for a payment from the Settlement, data from DEPCO will be used to calculate your payment. By remaining in the Class, however, you are giving up the right to sue Defendant in a different lawsuit about the same legal claims in this lawsuit. If you do not want to be legally bound by any releases, judgments, or orders in the lawsuit and keep any right you may have to sue DEPCO for the claims involved in the lawsuit, you must opt out of the Class by \_\_\_\_\_, **2021**. If you opt out, you will not be eligible to receive any benefits of the Settlement. If you are a Class Member and want to object to any aspect of the Settlement, you must do so by \_\_\_\_\_, **2021**. The Long-Form Notice provides instructions on how to opt out from the Class, or object to the Settlement, and you must comply with all of the instructions in the Long-Form Notice.

**When is the Fairness Hearing?** A hearing will be held on \_\_\_\_\_, **2021** at \_\_:\_\_.m., before the Honorable Ed Kinkeade, at the United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas 75242-1003, to determine if the Settlement, plan of allocation, and request for attorneys’ fees and expenses should be approved. Supporting papers



# EXHIBIT 2



UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

**If you are or were a royalty owner and received payments from Devon Energy Production Company from one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant, you may be entitled to benefits afforded by a class action settlement.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- This notice (“Long-Form Notice” or “Notice”) is being issued pursuant to Rule 23 of the Federal Rules of Civil Procedure and an order of the United States District Court for the Northern District of Texas (“Court”). The purpose of this Notice is to advise you of the pendency of a class action, where the Named Plaintiffs – four royalty owners – have sued Devon Energy Production Company (“DEPCO” or “Defendant”) alleging underpayment of royalties. Named Plaintiffs and DEPCO are referred to herein as the “Parties.” The class action, pending in the United State District Court for the Northern District of Texas, is entitled *Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher v. Devon Energy Production Company, L.P.*, No. 3:16-cv-00082-K (“Action” or “Lawsuit”).
- This Notice also advises that the Parties to the Action have agreed to settle the Action (“Settlement”). This Notice explains the Lawsuit, the Settlement, your legal rights, available benefits, who is eligible for them, and how to get them. As a Class Member, you have various options that you may exercise before the Court decides whether to approve the Settlement.
- **Your legal rights are affected whether you act or don’t act. This Notice includes important information about the Lawsuit and the Settlement.<sup>1</sup> Please read this Notice carefully.**
- The Settlement with DEPCO will provide \$28,000,000 in cash to resolve the Class’s claims against Defendant (“Settlement Fund”). The Settlement Fund, after certain deductions described herein, will be allocated to Class Members pursuant to the proposed plan of allocation, which can be reviewed at <http://www.seeligsonsettlement.com>.
- The Court in charge of this Action still has to decide whether to approve the Settlement. Payments will be made to Class Members only if the Court approves the Settlement and after appeals, if any, are resolved. The Court has scheduled a fairness hearing (“Fairness Hearing”) to decide on final approval of the Settlement, the plan for allocating the Settlement Fund to Class Members, and Class Counsel’s request for attorneys’ fees and expenses, and service awards to the Named Plaintiffs. The Fairness Hearing is scheduled for [date] before U.S. District Court Judge Honorable Ed Kinkeade at [place/time].
- Judge Kinkeade of the United States District Court for the Northern District of Texas certified this Lawsuit as a class action, and certified the following Class:

All persons or entities who, between January 1, 2008 and February 28, 2014, (i) are or were royalty owners in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP (“DGS”); (ii) received royalties from Devon Production Company,

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<sup>1</sup> The full terms of the Settlement are set forth in Stipulation and Agreement of Settlement, dated December 30, 2020 (the “Settlement Agreement”), a copy of which can be viewed on the Settlement website, [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com). All capitalized terms used herein and not otherwise defined herein have the meanings set forth in the Settlement Agreement. In the event of any conflicts between the terms of this Notice and the Settlement Agreement, the Settlement Agreement shall control.

L.P. (“DEPCO”) on such gas; (iii) had oil and gas leases that were on one of the following forms: Producers 88-198(R) Texas Paid-Up (2/93); MEC 198 (Rev. 5/77); Producers 88 (Rev. 10-70 PAS) 310; Producers 88 Revised 1-53—(With Pooling Provision); Producers 88 (2-53) With 640 Acres Pooling Provision; Producers 88 (3-54) With 640 Acres Pooling Provision; Producers 88 (4-76) Revised Paid Up with 640 Acres Pooling Provision; Producers 88 (7-69) With 640 Acres Pooling Provision; and Producers 88 (Rev. 3-42) With 40 Acres Pooling Provision (the “Class Lease Forms”);and (iv) had one or more of the oil and gas leases listed on the “Class Lease List”.

Excluded from the Class are: (1) overriding royalty interest owners who derive their interest through the oil and gas lease; (2) all governmental entities, including federal, state, and local governments and their respective agencies, departments, or instrumentalities; (3) the States and territories of the United States or any foreign citizens, states, territories, or entities; (4) the United States of America; (5) publicly traded entities and their respective parents, affiliates, and related entities; (6) owners of any interests and/or leases located on or within any federally created units; (7) owners of any non-operating working interest for which DEPCO or its agents or representatives, as operator, disburses royalty; (8) DEPCO and any entity in which DEPCO has a controlling interest, and their officers, directors, legal representatives and assigns; and (9) members of the judiciary and their staff to whom this Action is assigned.

See Section 5 below for more information regarding who is a member of the Class.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING</b>	<p><b>Stay in this Lawsuit. Receive the benefits of this Settlement if it is approved. Give up certain rights.</b></p> <p>You do not need to take any action to remain part of the Class and, if eligible, receive a payment from the Settlement (<i>see</i> Section 9 below); however, if you owned a royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant, but transferred your interest, you may need to provide additional information (<i>see</i> Section 9 below). If you remain a member of the Class, you are giving up the right to sue Defendant in a different lawsuit about the same legal claims in this Lawsuit.</p> <p>You may, if you wish, comment in favor of the Settlement by sending your comment to Class Counsel: Geoffrey C. Jarvis and Melissa L. Troutner, of Kessler Topaz Meltzer &amp; Check, LLP, 280 King of Prussia Road, Radnor, PA 19087 or by email to the email address: <a href="mailto:info@seeligsonsettlement.com">info@seeligsonsettlement.com</a>.</p>
<b>ASK TO OPT OUT OF THE CLASS NO LATER THAN _____, 2021</b>	<p><b>Get out of this Lawsuit. Get no money or benefits from the Settlement. Keep any rights you may have to sue Defendant about the same legal claims in this Lawsuit.</b></p> <p>If you request to opt out of the Class, you will not be able to share in the Settlement benefits. But, you will keep any rights you may have.</p>



	<p>If you wish to opt out of the Class, your opt out request must include your full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address, a clear statement that you wish to opt out of the Class, and be personally signed by you (and your lawyer if you are represented by counsel).</p> <p>Your opt out request must be sent to the Settlement Administrator at Devon Settlement Administrator, c/o Heffler Claims Group, 1515 Market Street, Suite 1700, Philadelphia, PA 19102.</p> <p>If your opt out request is properly submitted on or before the deadline, you will not be bound by the terms of the Settlement, and you will be free, if you choose, to pursue your own lawsuit against Defendant. If you do not submit a clear and timely opt out request, you will be bound by the Settlement Agreement and relinquish any claims against Defendant about the legal claims in this Lawsuit.</p>
<p><b>OBJECT TO THE SETTLEMENT NO LATER THAN _____, 2021</b></p>	<p><b>Object to the Settlement.</b></p> <p>If you are a member of the Class, you may object to the Settlement, the Plan of Allocation, Class Counsel’s request for attorneys’ fees and expenses, or the request for Named Plaintiffs’ service awards.</p> <p>You may, but need not, select an attorney to appear at the Fairness Hearing on your behalf. If you do, you will be responsible for your own attorneys’ fees and costs.</p> <p>If you object to the proposed Settlement, or any aspect thereof, you must do so in writing on or before _____, 2021. Your written objection must include:</p> <ul style="list-style-type: none"> <li>• Your full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address;</li> <li>• A copy of your oil and gas lease;</li> <li>• A written statement of all grounds for your objection, accompanied by any legal support for the objection;</li> <li>• Copies of any papers, briefs, or other documents upon which the objection is based;</li> <li>• The name, address, email address, and telephone number of every attorney representing the objector;</li> <li>• A statement indicating whether you and/or your counsel intends to appear at the Fairness Hearing and, if so, a list of all persons, if any, who will be called to testify in support of the objection; and</li> <li>• Your signature (and your counsel’s signature if you are represented by counsel).</li> </ul> <p>Your written objection must also be: (1) filed with the Clerk of the U.S. District Court for the Northern District of Texas, and (2) sent to: (A) Geoffrey C. Jarvis, Kessler Topaz Meltzer &amp; Check, LLP (Class</p>

	Counsel), 280 King of Prussia Road, Radnor, PA 19087; and (B) Craig A. Haynes, Thompson & Knight LLP (Defendant's Counsel), 1722 Routh Street, Suite 1500, Dallas, TX 75201.
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- **Any questions? Read this notice carefully and visit [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com).**

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## BASIC INFORMATION

### 1. Why did I get this notice?

The Court directed that this Notice be issued because the Parties in this Action have agreed to settle the Action. The Court “certified” this case as a class action lawsuit. If you are or were a royalty owner of DEPCO, in one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant between January 1, 2008 and February 28, 2014, you may be eligible to receive certain benefits, and have legal rights and options in this case. This notice explains all these things.

The Honorable Ed Kinkeade, Judge of the United States District Court for the Northern District of Texas, is overseeing this class action. The case is known as *Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher, individually and on behalf of all others similarly situated, v. Devon Energy Production Company, L.P.*, Case No. 3:16-cv-00082-K. The persons who sued, Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher, are called the Named Plaintiffs. The company they are suing, DEPCO, is called the Defendant.

### 2. Why is this Lawsuit a class action?

In a class action, one or more persons called class representatives (in this case, Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher) sue on behalf of people who have similar claims. All of these people who have similar claims collectively make up the “Class” and are called the “Class Members.” One lawsuit before one judge resolves the issues and claims for all class members together regardless of the outcome – favorable or unfavorable.

The Court decided that this Lawsuit could proceed as a class action under the requirements of Federal Rule of Civil Procedure 23. More information about why this is a class action can be found in the Court’s Class Certification Order, which is available at [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com).

The Court has not decided in favor of Named Plaintiffs or Defendant. Instead, both sides agreed to a Settlement with no decision or admission of who is right or wrong. That way, all Parties avoid the risks and cost of a trial, and the people affected (the Class Members) will get compensation quickly. The Named Plaintiffs and the attorneys think the Settlement is best for the Class.

The Court has authorized this Notice, but it is not an expression of an opinion by the Court as to the merits of any of the claims or defenses asserted by either side in the case.

## THE CLAIMS IN THE LAWSUIT

### 3. What is this Lawsuit about?

Named Plaintiffs Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher are DEPCO lessors and royalty owners of Barnett Shale wells located in Tarrant, Denton, and Wise Counties, Texas that produced natural gas processed through the Bridgeport Gas Processing Plant. Named Plaintiffs allege their royalties were underpaid as a result of the wrongful acts and misconduct of Defendant. Named Plaintiffs allege Defendant violated the duty to market implied in the Class Members’ leases by colluding with its affiliate Devon Gas Services (“DGS”) to inflate the profits of their shared parent company at the expense of royalty owners. Their Amended Complaint has the following claims for relief: (a) breach of contract; and (b) breach of implied covenant to market. Named Plaintiffs contend Defendant is liable for these claims. Defendant denies all of the claims and allegations made in the Lawsuit and asserted counterclaims that it overpaid royalties.



This Notice does not describe all claims and defenses brought by the Parties. The section entitled “Getting More Information” describes the process by which you can get more information about the Action, claims, and defenses asserted.

#### 4. What has happened so far in the case?

This Action was filed by Named Plaintiffs in 2014. Defendant answered and filed a counterclaim for declaratory relief against Named Plaintiffs and a mandatory, counter-defendant class of royalty owners, requesting that the Court declare the respective rights of DEPCO and its royalty owners.

The Court has certified the Class described in Section 5 below.

The Parties agreed to a Settlement of the Action and informed the Court of such on October 16, 2020. By settling, Named Plaintiffs and Defendant avoid the risk of trial and the continued costs of litigation. Named Plaintiffs and Class Counsel believe that the proposed Settlement is fair, adequate, reasonable, and in the best interests of the Class.

### MEMBERS OF THE CLASS

#### 5. How do I know if I am part of the Class?

If you fit within the Class definition below and do not fall under any exclusion, you are a member of the Court-certified Class consisting of:

All persons or entities who, between January 1, 2008 and February 28, 2014, (i) are or were royalty owners in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP (“DGS”); (ii) received royalties from Devon Production Company, L.P. (“DEPCO”) on such gas; (iii) had oil and gas leases that were on one of the following forms: Producers 88-198(R) Texas Paid-Up (2/93); MEC 198 (Rev. 5/77); Producers 88 (Rev. 10-70 PAS) 310; Producers 88 Revised 1-53—(With Pooling Provision); Producers 88 (2-53) With 640 Acres Pooling Provision; Producers 88 (3-54) With 640 Acres Pooling Provision; Producers 88 (4-76) Revised Paid Up with 640 Acres Pooling Provision; Producers 88 (7-69) With 640 Acres Pooling Provision; and Producers 88 (Rev. 3-42) With 40 Acres Pooling Provision (the “Class Lease Forms”); and (iv) had one or more of the oil and gas leases listed on the “Class Lease List.”

The persons or entities excluded from the Class are: (a) overriding royalty interest owners who derive their interest through the oil and gas lease; (b) all governmental entities, including federal, state and local governments and their respective agencies, departments, or instrumentalities; (c) the States and territories of the United States or any foreign citizens, states, territories or entities; (d) the United States of America; (e) owners of any interests and/or leases located on or within any federally created units; (f) owners of any non-operating working interest for which DEPCO or its agents or representatives, as operator, disburses royalty; (g) DEPCO and any entity in which DEPCO has a controlling interest, and their officers, directors, legal representatives and assigns; and (h) members of the judiciary and their staff to whom this Action is assigned. Also excluded from the Class are any Class Member that requests exclusion from the Class in accordance with the instructions set forth in this Notice.

If you are still not sure whether you are included in the Class, contact the Settlement Administrator or Class Counsel, listed below or visit [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com) to look up whether you are a Class Member. Or, you may contact your own lawyer at your own expense.

**6. How do I keep my address current?**

If you are a Class Member, you should have received a postcard Notice in the mail. If you did not receive a postcard Notice or if the postcard Notice you received was forwarded by the postal service, or sent to you at an address which is not current, you should immediately contact the **Devon Settlement Administrator, c/o Heffler Claims Group, 1515 Market Street, Suite 1700, Philadelphia, PA 19102, call, 1-833-537-1190, email, info@seeligsonsettlement.com, or visit www.seeligsonsettlement.com** and provide them with your current address.

## **THE SETTLEMENT BENEFITS**

**7. What does the Settlement provide?**

Defendant has agreed to pay \$28,000,000 in cash into an interest-bearing escrow account (“Settlement Fund”) for the benefit of the Class. Pursuant to the Settlement, any monies allocated to volumes of opt outs (i.e., opt out requests) shall be returned to Defendant.

If approved by the Court, the Settlement Fund (including any accrued interest while in escrow), minus any deductions for funds that have been allocated to opt out requests (as noted above), Court awarded attorneys’ fees and expenses to Class Counsel, the cost of settlement notice and administration, any taxes, and Court awarded service awards to the Named Plaintiffs (the “Net Settlement Fund”) will be distributed to Class Members. Distributions to Class Members will be made based on the royalty payments made by DEPCO during the Class Period. Historical royalty payment data from Defendant will be used to make these calculations.

As part of the Settlement, Defendant and Class Members will be released and discharged from all claims asserted in the Lawsuit and all related claims (“Releasees” and “Released Claims” as defined in the Settlement Agreement). The full text of the agreed-upon Releases is included in the Settlement Agreement, available at [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com).

**8. When would I get my payment and how much would it be?**

Each Class Member’s recovery amount will be determined using a Court-approved Plan of Allocation. The detailed Plan of Allocation can be reviewed at [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com). Under the proposed Plan of Allocation, distribution of the Net Settlement Fund to Class Members will be made based on the royalty payments made by DEPCO during the Class Period. Apportioning the Net Settlement Fund among Class Members based on the historical royalty payments is consistent with the effect among Plaintiffs and members of the class of the artificial price reduction of royalties over the course of the Class Period that was allegedly caused by Defendant’s misconduct.

Money from the Settlement will only be distributed to Class Members if the Court grants final approval of the Settlement. Payment is conditioned on several matters, including the Court’s approval of the Settlement and such approval no longer being subject to any appeals to any court or, if there is an appeal, such appeal being final and no longer subject to any further appeal.

The Settlement Agreement may be terminated if the Court does not grant approval of the Settlement or materially modifies it. If the Settlement Agreement is terminated, the Lawsuit will proceed as if the Settlement had not been reached.



### 9. How can I get a payment?

If the Settlement is approved by the Court, the Settlement Administrator will distribute the Settlement Fund consistent with the Plan of Allocation. Historical royalty payment data from Defendant will be used to make these calculations. You may be asked to verify the information.

If you owned royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant between January 1, 2008 and February 28, 2014 but no longer own such interest, you must notify the Settlement Administrator by calling toll-free 833-537-1190, or writing to Devon Settlement Administrator, c/o Heffler Claims Group, 1515 Market Street, Suite 1700, Philadelphia, PA 19102, and advise whether you retained any rights to the proceeds of this Lawsuit. If you no longer own such interest and retained rights to proceeds of this Lawsuit, but fail to notify the Settlement Administrator [on or before opt-out date], any proceeds of this Lawsuit will be paid to the royalty owner as reflected in DEPCO's pay histories for such interest as of the February 2014 production month, or last production month in time prior thereto.

## YOUR RIGHTS AND OPTIONS

### 10. What happens if I do nothing at all?

If you do nothing, you are choosing to stay in the Class. You will be subject to and bound by the Settlement Agreement and every order or judgment entered in the Lawsuit, and you will not be able to sue or continue to sue Defendant, in a different case, over the legal claims that are or could have been included in this Action. If the Settlement is approved, you may be entitled to share in the proceeds, less deductions for opt out requests (see Section 9 above), and such costs, expenses, and attorney's fees as the Court may allow out of such recovery. Do not request to opt out of the Class if you wish to participate in this Settlement as a Class Member.

### 11. What happens if I opt out of the Class?

If you opt out of the Class you will not be bound by any judgment in this Lawsuit, nor will you be entitled to share in this Settlement, but you may individually pursue any legal rights you may have against Defendant at your own expense. If you do opt out so you can start or continue your own lawsuit against Defendant, you should talk to your own lawyer, because your claims may be subject to a statute of limitations.

### 12. Why would I ask to opt out of the Class?

Grouping the class members into this one class action saves both time and expenses, and allows the royalty owners' remedies to be quickly and efficiently decided. If you already have your own royalty underpayment lawsuit against Defendant and want to continue with it, you should opt out. If you choose to stay in the Class in this Lawsuit, you shall be subject to and bound by the Settlement Agreement and every order or judgment entered in the Lawsuit, and you will not be able to sue or continue to sue Defendant, in a different case, over the legal claims that are or could have been included in the Action.

Please Note: Defendant has the right to terminate the Settlement if valid Opt Out Requests are received from members of the Class in an amount that exceeds an amount agreed to by Named Plaintiffs and Defendant.

### 13. How do I ask to opt out of the Class?

To request to opt out of the Class, you must send an Opt Out Request in the form of a letter by mail, stating that you want to opt out of the Class in *Seeligson v. Devon Energy Production Company, L.P.* To be valid,

your Opt Out Request must: (1) state the full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address of the person or entity requesting to opt out, (2) be signed by the individual or an officer of the entity requesting to opt out, and (3) be mailed to **Devon Settlement Administrator, c/o Heffler Claims Group, 1515 Market Street, Suite 1700, Philadelphia, PA 19102**, and postmarked no later than **[opt-out date]**. Your “Bus Assoc #”, or owner number, can be found on your Statement of Oil & Gas Payments. If your Opt Out Request is not properly submitted on or before **[opt-out date]**, you will be considered a Class Member, and you will be bound by any final judgment in this Lawsuit.

#### 14. How do I object to the Settlement?

If you are a member of the Class, you may object to the Settlement, the Plan of Allocation, Class Counsel’s request for attorneys’ fees and expenses, or the request for Named Plaintiffs’ service awards. If you object to the proposed Settlement, you must do so in writing **on or before** \_\_\_\_\_, **2021**. Your written objection must include:

- Your full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address;
- A copy of you oil and gas lease;
- A written statement of all grounds for your objection, accompanied by any legal support for the objection;
- Copies of any papers, briefs, or other documents upon which the objection is based;
- The name, address, email address, and telephone number of every attorney representing you;
- A statement indicating whether you and/or your counsel intends to appear at the Fairness Hearing and, if so, a list of all persons, if any, who will be called to testify in support of the objection; and
- Your signature (and your counsel’s signature if you are represented by counsel).

Your written objection must also be: (1) filed with the Clerk of the U.S. District Court for the Northern District of Texas, and (2) sent to: (A) Geoffrey C. Jarvis, of Kessler Topaz Meltzer & Check, LLP (Class Counsel), 280 King of Prussia Road, Radnor, PA 19087; and (B) Craig A. Haynes, Thompson & Knight LLP (Defendant’s Counsel), 1722 Routh Street, Suite 1500, Dallas, TX 75201.

You may, but need not, select an attorney to appear at the Fairness Hearing on your behalf. If you do, you will be responsible for your own attorneys’ fees and costs.

### THE LAWYERS APPOINTED TO REPRESENT YOU

#### 15. Do I have a lawyer in this case?

The Court appointed the attorneys listed below to serve as Class Counsel to represent you and other Class Members. They are experienced in handling similar cases.

Geoffrey Jarvis  
Melissa Troutner  
KESSLER TOPAZ  
MELTZER & CHECK, LLP  
280 King of Prussia Road  
Radnor, PA 19087

David Drez III  
WICK PHILLIPS  
GOULD & MARTIN, LLP  
100 Throckmorton Street  
Fort Worth, TX 76102  
Tel: (817) 332-7788

**QUESTIONS? CALL 833-537-1190 TOLL FREE, OR VISIT [WWW.SEELIGSONSETTLEMENT.COM](http://WWW.SEELIGSONSETTLEMENT.COM).**

**DO NOT CALL THE COURT WITH YOUR QUESTIONS.**

Tel: (610) 667-7706  
Email: gjarvis@ktmc.com  
Email: mtroutner@ktmc.com

Email: david.drez@wickphillips.com

Brad Seidel  
SEIDEL LAW FIRM, PC  
6 Hedge Lane  
Austin, TX 78746  
Tel: (512) 537-0903  
Email: brad@seidelpc.com

Jack Mattingly, Jr.  
MATTINGLY & ROSELIUS, PLLC  
215 East Oak Avenue  
Seminole, OK 74868  
Tel: (405) 382-3333  
Email: jackjr@mroklaw.com

#### 16. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel have been appointed by the Court to represent you and all the other members of the Class. You can hire your own lawyer, at your own expense, if you want someone other than Class Counsel to speak for you.

#### 17. How will the lawyers be paid?

The Court will be asked to approve reasonable fees and expenses for the lawyers who worked on the case of up to one-third of the Settlement Fund plus reimbursement for the litigation expenses they have advanced on behalf of the Class. Class Counsel will also ask for service awards for the Named Plaintiffs of up to \$80,000 from the Settlement Fund in the aggregate in recognition of their efforts to date on behalf of the Class. If the Court grants Class Counsel's requests, such attorneys' fees, expenses, and service awards would be deducted from the Settlement Fund. Members of the Class will not have to pay any attorneys' fees or expenses out of their own pockets.

Any application by Class Counsel for an award of attorneys' fees, reimbursement of expenses, and service awards to the Named Plaintiffs will be filed with the Court and made available for download and/or viewing on or before \_\_\_\_\_, 2021 on [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com), as well as the offices of the Clerk of the Court, United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas, 75242, under Civil Action 3:16-cv-00082.

### GETTING MORE INFORMATION

#### 18. Is more information about the Lawsuit available?

This Notice gives only a summary of the Settlement and Lawsuit. More information is available by visiting [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com), calling toll-free 833-537-1190, or writing to **Devon Settlement Administrator, c/o Heffler Claims Group, 1515 Market Street, Suite 1700, Philadelphia, PA 19102**. You may also contact Class Counsel listed above.

Complete copies of the pleadings, orders, and other documents filed in this case are available at <http://www.pacer.gov> or the office of the Clerk of the Court, United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas, 75242, under Civil Action 3:16-cv-00082.

DATE: Month 00, 0000

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

**QUESTIONS? CALL 833-537-1190 TOLL FREE, OR VISIT [WWW.SEELIGSONSETTLEMENT.COM](http://WWW.SEELIGSONSETTLEMENT.COM).  
DO NOT CALL THE COURT WITH YOUR QUESTIONS.**

**Page 11**

**App. 55**

# EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**JUDGMENT APPROVING CLASS ACTION SETTLEMENT**

THIS MATTER having come before the Court for consideration of the Parties’ application for Final Approval of Class Action Settlement, in accordance with the Parties’ Settlement Agreement.

WHEREAS, Defendant Devon Energy Production Company, L.P. (“DEPCO”) and Plaintiffs Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher, (the “Named Plaintiffs”), and the Certified Class (collectively, “Plaintiffs”) reached a Class settlement (the “Settlement”);

WHEREAS, the Class definition moved for and approved by the Court in the February 11, 2020 Memorandum Opinion and Order, includes:

All persons or entities who, between January 1, 2008 and February 28, 2014, (i) are or were royalty owners in Texas wells producing natural gas that was processed through the Bridgeport Plant by DGS; (ii) received royalties from DEPCO on such gas; (iii) had oil and gas leases that were on one of the following forms: Producers 88-198(R) Texas Paid-Up (2/93); MEC 198 (Rev. 5/77); Producers 88 (Rev. 10-70 PAS) 310; Producers 88 Revised 1-53—(With Pooling Provision); Producers 88 (2-53) With 640 Acres Pooling Provision; Producers 88 (3-54) With 640 Acres Pooling Provision; Producers 88 (4-76) Revised Paid Up

with 640 Acres Pooling Provision; Producers 88 (7-69) With 640 Acres Pooling Provision; and Producers 88 (Rev. 3-42) With 40 Acres Pooling Provision (the “Class Lease Forms”); and (iv) had one or more of the oil and gas leases listed on the “Class Lease List.”<sup>1</sup>

Excluded from the Class are: (1) overriding royalty interest owners who derive their interest through the oil and gas lease; (2) all governmental entities, including federal, state, and local governments and their respective agencies, departments, or instrumentalities; (3) the States and territories of the United States or any foreign citizens, states, territories, or entities; (4) the United States of America; (5) publicly traded entities and their respective parents, affiliates, and related entities; (6) owners of any interests and/or leases located on or within any federally created units; (7) owners of any non-operating working interest for which DEPCO or its agents or representatives, as operator, disburses royalty; (8) DEPCO and any entity in which DEPCO has a controlling interest, and their officers, directors, legal representatives and assigns; and (9) members of the judiciary and their staff to whom this Action is assigned.

WHEREAS, the Parties submitted the Settlement Agreement together with Plaintiffs’ Unopposed Motion for Preliminary Approval of the proposed settlement to the Court;

WHEREAS, the Court gave its preliminary approval of the Settlement on \_\_\_\_\_ date (the “Preliminary Approval Order”) and directed the Parties to provide notice to the Class of the proposed Settlement and the Fairness Hearing by regular mail and via the internet;

WHEREAS, the Court appointed Settlement Administrator, Heffler Claims Group, effectuated notice to the Class in accordance with the Preliminary Approval Order and also pursuant to the notice requirements set forth in 28 U.S.C. § 1715;

WHEREAS, Plaintiffs submitted their Motion for Final Approval of Class Settlement, Award of Attorneys’ Fees and Expenses, and Approval of Service Awards on \_\_\_\_\_;

WHEREAS, on \_\_\_\_\_, the Court conducted a Fairness Hearing to determine whether the proposed Settlement is fair, reasonable, and adequate, whether the Settlement should be granted final approval by this Court, whether Class Counsel’s request for attorneys’ fees and reimbursement of expenses in the amount of \$\_\_\_\_\_ should be awarded; and

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<sup>1</sup> The “Class Lease List” is Exhibit 5 to the Settlement Agreement and is attached hereto as Exhibit \_\_\_.

whether the request for a Service Award in the aggregate amount of \$80,000 to be allocated equally among the Named Plaintiffs, should be approved; and

WHEREAS, the Parties have appeared at the Fairness Hearing.

THEREFORE, after reviewing the pleadings and evidence filed in support of final approval of the Settlement as well as Plaintiffs' requested award for attorneys' fees, reimbursement of expenses, and Service Award and supporting documentation, and hearing the attorneys for the Parties,

**IT IS ON THIS \_\_\_\_ day of \_\_\_\_\_, 2021, ORDERED and ADJUDGED that the Court finds and orders as follows:**

1. All terms herein shall have the same meaning as defined in the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of this Litigation and over the Parties to this Litigation, including all Class Members.
3. The Court confirms its previous preliminary findings in the Preliminary Approval Order.
4. Notice of the Class required by Rule 23(e) of the Federal Rules of Civil Procedure has been provided in accordance with the Court's Preliminary Approval Order, by mailing such Notice by first-class mail. The Settlement Administrator, Heffler Claims Group, also placed the Notice on its website, [www.Seeligsonsettlement.com](http://www.Seeligsonsettlement.com). Thus, notice has been given in an adequate and sufficient manner, constitutes the best notice practicable under the circumstances, and satisfies all requirements of Rule 23(e) and due process.
5. In accordance with the requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, the Settlement Administrator caused to be mailed a copy of the proposed class

action settlement and all other documents required by law to the Attorney General of the United States and the Attorneys General in each of the jurisdictions where class members reside. None of the Attorneys General filed objections to the Settlement.

6. The Settlement was a result of arm's-length negotiation by experienced counsel with an understanding of the strengths and weaknesses of their respective cases. Among the factors that they considered are those set forth in the Plaintiffs' Motion for Preliminary Approval of the Class Action Settlement. The Parties have agreed to the Settlement without any admission of wrongdoing by Defendant, which has been denied, and to avoid further expense, uncertainty, and inconvenience. As part of this Litigation, Class Counsel has conducted a detailed investigation of the facts and analyzed the relevant legal issues. Although the Named Plaintiffs and Class Counsel believe that the claims asserted in the Amended Complaint have merit, they also have examined the benefits to be obtained under the Settlement compared to the costs, risks, and delays associated with the continued litigation of these claims.

7. The Settlement is fair, reasonable, and adequate, and serves the best interests of the Class, in light of all the relevant factors including the benefits afforded to the Class, the complexity, expense, uncertainty and duration of the litigation, and the risks involved in establishing liability and damages through trial and appeal.

8. The Plan of Allocation provides a fair and reasonable basis upon which to allocate the net proceeds of the Settlement among Class Members with due consideration having been given to administrative convenience and necessity. The Court hereby finds and concludes that the Plan of Allocation is, in all respects, fair and reasonable to the Class. Accordingly, the Court hereby approves the Plan of Allocation proposed by the Named Plaintiffs and Class Counsel.



9. The Parties and Class Members have submitted to the exclusive jurisdiction of this Court for any suit, action, proceedings, or dispute arising out of this Settlement.

10. It is in the best interests of the Parties and the Class Members, and consistent with the principles of judicial economy, that any dispute between any Class Members (including any dispute as to whether any person is a Class Member) and any Released Party which in any way relates to the applicability or scope of the Settlement Agreement or this Final Order and Judgment should be presented exclusively to this Court for resolution.

11. The Settlement Agreement submitted by the Parties is finally approved pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, reasonable, and adequate, and in the best interests of the Class. The Parties are directed to perform all obligations under the Settlement Agreement in accordance with its terms.

12. The Parties and each person within the definition of the Class are hereby bound by the terms and conditions of the Settlement Agreement, except for those who have duly and timely excluded themselves. Attached to this Final Order and Judgment as [Exhibit A] is a list of names of each Class Member who has filed a timely and proper request for exclusion from the Class under the procedures set forth in the Settlement Agreement.

13. The Litigation is hereby dismissed with prejudice and without costs. This Judgment has been entered without any admission by any Party as to the merits of any allegation in this Litigation and shall not constitute a finding of either fact or law as to the merits of any claim or defense asserted in the Litigation.

14. The Released Claims of the Parties, including all claims arising out of this Litigation and the facts or circumstances that were or could have been alleged in this Litigation as described in the Settlement, are hereby fully, finally and forever released, discharged,

compromised, settled, relinquished, and dismissed with prejudice against all of the Released Parties.

15. Members of the Class and their successors and assigns are hereby permanently barred and enjoined from asserting, commencing, prosecuting, or continuing to prosecute, either directly or indirectly, in any manner, any Released Claim against any one of the Released Parties in any forum, with the exception of any Class Members who have duly and timely excluded themselves.

16. The Settlement Agreement, Settlement-related documents, and/or the Court's approval thereof, do not constitute, and is not to be used or construed as, any admission by Defendant or by any Released Party of any allegations, claims, or alleged wrongdoing.

17. The Court approves an award of \$80,000 in the aggregate to be allocated equally among the Named Plaintiffs: Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher, as a reasonable payment for their efforts, expenses, and risk as Named Plaintiffs in bringing this action, which shall be paid from the Settlement Fund as provided in the Settlement Agreement.

18. Without affecting the finality of this judgment, the Court's retained jurisdiction of this Settlement also includes the administration and consummation of the Settlement. In addition, without affecting the finality of this judgment, the Court retains exclusive jurisdiction of, and the Parties and all Class members are hereby deemed to have submitted to the exclusive jurisdiction of this Court for, any suit, action, proceeding, or dispute arising out of or relating to this Final Order and Judgment, the Settlement Agreement, or the Applicability of the Settlement Agreement. Without limiting the generality of the foregoing, any dispute concerning the Settlement Agreement, including, but not limited to, any suit, action, arbitration, or other

proceeding by a Class member in which the provisions of the Settlement Agreement are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, shall constitute a suit, action, or proceeding arising out of or relating to this Order. Solely for purposes of such suit, actions, or proceeding, to the fullest extent possible under applicable law, the Parties hereto and all persons within the definition of the Class are hereby deemed to have irrevocably waived and agreed not to assert, by way of motion, as a defense, or otherwise, any claim or objection that they are not subject to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an inconvenient forum.

19. The Court finds that the Class members were given a full and fair opportunity to object to the Settlement, to exclude themselves from the Class, and/or to appear at the final fairness hearing pursuant to the requirements set forth in the Settlement Agreement and Preliminary Approval Order.

20. The Objection[s] filed are hereby [denied].

21. The Court finds that no just reason exists for delay in entering this Final Order and Judgment. Accordingly, the Clerk is hereby directed to enter final judgment.

**SO ORDERED**

Signed this \_\_\_ day of \_\_\_\_\_, 2021

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The Honorable Ed Kinkeade  
United States District Judge

# EXHIBIT 4

## PLAN OF ALLOCATION

This Plan of Allocation describes the manner in which the Settlement Fund shall be allocated and distributed to Class Members.<sup>1</sup> The Settlement, adjusted for allowable expenses and revenue, (the “Net Settlement”) shall be allocated to Class Members according to the methodology set forth below (the “Allocation Methodology”).

### **I. Allocation Among Class Members**

1. At such time as the Final Order and Judgment becomes final and non-appealable, Plaintiffs and Class Counsel will, as promptly as reasonably possible, but no later than 60 days after the Effective Date of Settlement, file a Final Plan of Allocation with the Court, which will reflect the proportionate amount of the Net Settlement to be paid to each Class Member pursuant to the Allocation Methodology. Plaintiffs and Class Counsel will obtain the Court’s approval of a list of the names, addresses, and tax identification numbers of Class Members who have not opted-out, along with the amount to be paid to each such Class Member. To the extent any of the foregoing information is unknown for any Class Members, despite reasonable commercial efforts to obtain it, the list may show that such information is unknown. The names, addresses, and amounts to be paid will be determined as described herein.

2. The amount of the Settlement Fund to be allocated to Class Members shall be calculated as the Settlement Amount of \$28 million, adjusted for Fee and Expense Awards, Administration Expenses, interest, and dividends. The Net Settlement to be allocated is projected to be approximately \$18 million.

3. The allocation relies on owner-side check stub data provided by DEPCO. DEPCO provided data and instruction on how DEPCO uses that data. However, DEPCO had no role in creating this Plan of Allocation and has no liability for it. This data includes owner gross values paid and/or suspended (accrued in a suspense account) for production months January 2008 through February 2014 (i.e., the duration of the Class Period).<sup>2</sup> Those parties excluded from the Class and the related data have been identified and removed from the allocation.<sup>3</sup> In other words,

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<sup>1</sup> Any capitalized terms found herein shall have the same meaning as set forth in the Settlement Agreement.

<sup>2</sup> The check stub data also includes owner volume data, but it is not standardized to MMBtu heat basis. Rather it remains in either MCF or Gallon terms depending on the product, thus owner volume cannot be used as a standardized allocation basis. Per DEPCO, this detail also includes suspended entries.

<sup>3</sup> See “Certified Class.” This identification involves a manual inspection of payees and also key word searches for: \*CITY\*, \*TOWN\*, \*MUNI\*, \*ISD\*, \*DISTRICT\*, \*COUNTY\*, \*DEVON\*, and \*SCHOOL\*.

excluded parties will not receive an allocation of the Net Settlement nor will their check stub information affect the allocation. The Net Settlement will be allocated to the Class Members using the following four-step process:

**First Step: An allocation of the Net Settlement to wells.** The Net Settlement will be proportionately allocated to each well by the ratio of (1) the sum of the Class Members' gross value for each well for production months from January 2008 through February 2014, divided by (2) the sum of the total Class Members' gross value for all wells for production months from January 2008 through February 2014.

**Second Step: An allocation to the Class Members in each well.** A secondary allocation will apportion each well's allocated amount among the Class Members that held an interest in the respective well's last production month within the Class Period. In most cases, for wells continuing to produce beyond the Class Period, the last month is February 2014. In certain other cases, if wells were producing during the Class Period, but ceased production prior to February 2014, then the last month of production will be used for the allocation. The well's allocated amount will be proportionately allocated to each Class Member by the ratio of (1) the Class Member's decimal interest in the well's last month of production, divided by (2) the sum of the Class Members' decimal interests in the well's last month of production.

**Third Step: Aggregate the settlement.** Class Members' allocated amounts will be aggregated, identified by their Tax ID numbers, and provided to the Settlement Administrator. Class Members with an allocation less than a pre-tax amount of \$5 will not receive a check. Instead, those amounts will be ratably re-allocated across the remaining Class Members.

**Fourth Step: Manage the Opt-Outs.** Those Class Members who wish to Opt-Out of the Class shall identify themselves through the Request for Opt-Out process described within the Settlement Agreement and in the Long-Form Class Notice available on the Settlement Administrator's website. Any amounts allocated to Opt-Outs will be returned to the Defendant by the Settlement Administrator in accordance with the Settlement Agreement.

## II. Distribution Among Class Members

4. Distributions to Class Members will only be made based on the Final Plan of Allocation approved by the Court.

5. The Settlement Administrator will make a diligent effort to mail the Distribution Checks to Class Members within 90 days after the Effective Date of Settlement.

6. Included within each Distribution Check shall be an enclosure that contains the following notice (or, if a change is required by the Court, a notice substantially the same as the following):

TO: Class Member: The enclosed check represents your share of the net settlement fund from the settlement of the Action captioned *Henry Seeligson, et al. v. Devon Energy Production Company, L.P.*, No. 3:16-cv-00082-K, in the United States District Court for the Northern District of Texas. You are receiving this notice and check because you have been identified as a Class Member in this Action. This check relates to claims for royalty underpayments for production months January 2008 through February 2014. If you are not legally entitled to the proceeds identified on the check, the Court has entered an Order that requires you to pay these proceeds to the person or entity legally entitled thereto or return this check uncashed to the sender. Please see [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com) or call toll-free 833-537-1190 for more information.

The Allocation Methodology described above assumes that very few sales of royalty interests have occurred. It also assumes that where sales did occur, it was the intent of the parties that the buyer was entitled to receive payment for past claims. Finally, it assumes that where royalty interests passed through inheritance, devise, or interfamily transfers, that it was the intent that the heir, devisee, or transferee also receive payment for past claims. To the extent these assumptions are not correct in relation to particular transfers of interest, the person who receives payment must in turn make payment to the proper party or return the check uncashed to the sender. The person to whom this check was originally made payable, and anyone to whom the check has been assigned by that person, accepts the payment pursuant to the terms of the Settlement Agreement, Notice of Settlement, and Final Order and Judgment related

thereto, which releases, Defendant, and the other Released Parties (as defined in the Settlement Agreement) from any and all Released Claims (as defined in the Settlement Agreement). It is the duty of the payee of the check to ensure that the funds are paid to the Class Member entitled to the funds, and the release by the Class Member entitled to the funds shall be effective regardless of whether such Class Member receives some, all, or none of the proceeds paid to a payee of a settlement check. This check will be null and void if not cashed within one hundred twenty (120) days of its issuance date, and a void request will be issued. The portion of the Net Settlement attributable to that Class Member will remain in the Escrow Account for one hundred eighty (180) days after the date the initial Distribution Check was issued and, thereafter, will be considered “Residual Unclaimed Funds”. The release of claims provided in the Settlement Agreement will be effective regardless of whether this check is cashed.

7. The Settlement Administrator will use commercially reasonable efforts, subject to review and approval by Plaintiffs’ Counsel, to distribute the Net Settlement. If the information needed to send a Distribution Check cannot be obtained through such efforts, the portion of the Net Settlement allocated to such Class Member will remain in the Escrow Account as “Residual Unclaimed Funds.”

8. If a Distribution Check is returned to the Settlement Administrator for incorrect or insufficient address, the Settlement Administrator and/or consultants working with the Settlement Administrator will use commercially reasonable methods to locate an updated address and will re-issue and re-mail the Distribution Check within twenty one (21) business days. If the second Distribution Check is returned and the Class Member cannot be located through commercially reasonable efforts, the portion of the Net Settlement attributable to that Class Member will remain in the Escrow Account for 60 days after the date the last Distribution Check was issued and, thereafter, will be considered “Residual Unclaimed Funds”.

9. Defendant, Defendant’s Counsel, the Settlement Administrator, Plaintiffs, and Plaintiffs’ Counsel shall have no liability to any Class Member for mis-payments, over-payments, or under-payments of the Net Settlement.

10. If any Class Member has been paid any portion of the Net Settlement for any



period of time for which that Class Member was not entitled to receive that payment, and some other person or entity who owned or claims they owned the right to assert the Released Claims and asserts a claim against any of the Released Parties for payment of all or a portion of the Net Settlement or any other Released Claim, then the Class Member who received an excess share shall be liable for any overpayment amount to the person or entity who is determined to have properly owed that amount, and that Class Member shall indemnify, defend, and hold harmless any of the Released Parties, Plaintiffs' Counsel, or any other Class Member.

### **III. Residual Unclaimed Funds**

11. To the extent not specifically addressed above, any other amount of the Net Settlement that remains in the Escrow Account one hundred eighty (180) days after the date the Settlement Administrator sends the initial Distribution Checks and for which further distribution is not economically viable, shall be considered "Residual Unclaimed Funds."

12. Within two hundred ten (210) days after the Settlement Administrator sends the initial Distribution Checks, the Settlement Administrator shall send a reconciliation of the amount remaining in the Escrow Account to Defendant and Plaintiffs' Counsel, and Plaintiffs shall submit applications to the Court to distribute such funds pursuant to the terms of the Final Plan of Allocation. The reconciliation must include (i) a detail of each distribution made from the Escrow Account; (ii) a detail of the amounts returned to the Defendant related to Class Members that opted-out of the Class, (iii) a detail of the Residual Unclaimed Funds; (iv) detail showing the total amount of the Fee and Expense Award, Administration Expenses, and other fees as approved by the Court, and (v) interest and dividend income paid into the Escrow Account.

13. Any Residual Unclaimed Funds remaining in the Escrow Account after distribution has otherwise been completed and which can be identified to a Class Member shall be distributed to the State of Texas in accordance with the provisions of the Texas Property Code relating to unclaimed property.

### **IV. Administration**

14. The Settlement Administrator will administer the Settlement under Class Counsel's supervision in accordance with this Initial Plan of Allocation Order and the Settlement Agreement. All determinations under this Plan of Allocation will be made by the Claims Administrator, subject to review by Lead Counsel and approval by the Court. Defendant will cooperate in the administration of the Settlement to the extent reasonably necessary to effectuate

its terms.

15. The Releases will be effective as provided in the Settlement Agreement, regardless of whether or not particular Class Members did or did not receive payment in connection with the Settlement Agreement and regardless of whether or not any Class Member who was obligated pursuant to the Final Order and Judgment to pay some or all of the distributed funds to another Class Member in fact made such payment to such other member of the Class. The failure of a Class Member to make a payment required of it pursuant to the payment obligations of the Final Order and Judgment will not be a defense to enforcement of the release of the Released Claims against the Released Parties.

16. Except in the case of willful and intentional malfeasance of a dishonest nature directly causing such loss, Plaintiffs' Counsel, Plaintiffs, and the Class will have no liability for loss of any portion of the Gross or Net Settlement under any circumstances and, in the event of such malfeasance, only the party whose malfeasance directly caused the loss has any liability for the portion of the Gross or Net Settlement lost.

**V. Amendments to the Plan of Allocation**

This Plan of Allocation may be amended with Court approval, without further notice to Class Members. To obtain the most up-to-date information regarding the Plan of Allocation, please visit [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com) or call 1-833-537-1190.

# EXHIBIT 5

[FILED UNDER SEAL]

# EXHIBIT 6

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**[PROPOSED] ORDER PRELIMINARILY  
APPROVING SETTLEMENT AND PROVIDING FOR NOTICE**

WHEREAS, an action is pending in this Court entitled *Seeligson v. Devon Energy Prod. Co., L.P.*, Case No. 3:16-cv-00082-K (the “Action”);

WHEREAS, Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher (“Plaintiffs”), on behalf of themselves and the Certified Class (defined below), and Defendant Devon Energy Production Company, L.P. (“Defendant” or “DEPCO”) have determined to settle all claims asserted against Defendant in this action with prejudice on the terms and conditions set forth in the Stipulation and Agreement of Settlement dated December 30, 2020, subject to the approval of this Court (the “Settlement”).

WHEREAS, the Class definition moved for and approved by the Court in the February 11, 2020 Memorandum Opinion and Order, includes:

All persons or entities who, between January 1, 2008 and February 28, 2014, (i) are or were royalty owners in Texas wells producing natural gas that was processed through the Bridgeport Plant by DGS; (ii) received royalties from DEPCO on such gas; (iii) had oil and gas leases that were on one of the following forms: Producers 88-198(R) Texas Paid-Up (2/93); MEC 198 (Rev. 5/77);

Producers 88 (Rev. 10-70 PAS) 310; Producers 88 Revised 1-53—(With Pooling Provision); Producers 88 (2-53) With 640 Acres Pooling Provision; Producers 88 (3-54) With 640 Acres Pooling Provision; Producers 88 (4-76) Revised Paid Up with 640 Acres Pooling Provision; Producers 88 (7-69) With 640 Acres Pooling Provision; and Producers 88 (Rev. 3-42) With 40 Acres Pooling Provision (the “Class Lease Forms”); and (iv) had one or more of the oil and gas leases listed on the “Class Lease List”<sup>1</sup>.

Excluded from the Class are: (1) overriding royalty interest owners who derive their interest through the oil and gas lease; (2) all governmental entities, including federal, state, and local governments and their respective agencies, departments, or instrumentalities; (3) the States and territories of the United States or any foreign citizens, states, territories, or entities; (4) the United States of America; (5) publicly traded entities and their respective parents, affiliates, and related entities; (6) owners of any interests and/or leases located on or within any federally created units; (7) owners of any non-operating working interest for which DEPCO or its agents or representatives, as operator, disburses royalty; (8) DEPCO and any entity in which DEPCO has a controlling interest, and their officers, directors, legal representatives and assigns; and (9) members of the judiciary and their staff to whom this Action is assigned.

WHEREAS, Plaintiffs have made a motion, pursuant to Rule 23(e)(1) of the Federal Rules of Civil Procedure, for an order preliminarily approving the Settlement and allowing notice to Class Members as more fully described herein;

WHEREAS, the Court has read and considered: (a) Plaintiffs’ motion to preliminary approval of the Settlement and authorization to send notice of the Settlement to the Class, and the papers filed and arguments made in connection therewith; and (b) the Settlement Agreement and the exhibits attached thereto; and

WHEREAS, unless otherwise defined in this Order, the capitalized terms herein shall have the same meaning as they have in the Settlement Agreement;

NOW THEREFORE, IT IS HEREBY ORDERED:

1. **Preliminary Approval of the Settlement:** The Court hereby preliminarily approves the Settlement, as embodied in the Stipulation and Agreement of Settlement, and

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<sup>1</sup> The “Class Lease List” is Exhibit 5 to the Settlement Agreement and was filed under seal. It is incorporated by reference into this Order.

including, without limitation, the Plan of Allocation attached hereto, and finds, pursuant to Rule 23(e)(1)(B)(i) of the Federal Rules of Civil Procedure, that it will likely be able to finally approve the Settlement under Rule 23(e)(2) as being fair, reasonable, and adequate to the Class, subject to the further consideration at the Fairness Hearing to be conducted as described below.

2. **Fairness Hearing:** The Court will hold a settlement hearing (the “Fairness Hearing”) on \_\_\_\_\_, 2021, at \_\_\_:\_\_\_ .m., and no earlier than one hundred-twenty (120) calendar days after the Notice Date, via teleconference for the following purposes: (a) to determine whether the proposed Settlement on the terms and conditions provided for in the Settlement Agreement is fair, reasonable, and adequate to the Class, and should be finally approved by the Court; (b) to determine whether a Judgment in the form attached as Exhibit 3 to the Settlement Agreement should be entered dismissing the Action with prejudice against the Parties; (c) to determine whether the proposed Plan of Allocation for the proceeds of the Settlement is fair and reasonable and should be approved; (d) to determine whether the motion by Class Counsel for attorneys’ fees, Litigation Expenses, and Service Awards should be approved; and (e) to consider any other matters that may be properly brought before the Court in connection with the Settlement. Notice of the Settlement and the Fairness Hearing shall be given to the Class Members as set forth in paragraph 4 of this Order.

3. The Court may adjourn the Fairness Hearing without further notice to the Class, and may approve the proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the Class.

4. **Retention of Settlement Administrator and Manner of Giving Notice:** Class Counsel are hereby authorized to retain Heffler Claims Group (the “Settlement Administrator”) to supervise and administer the notice procedure in connection with the proposed Settlement.

Notice of the Settlement and the Fairness Hearing shall be given by Class Counsel as follows:

(a) Defendant shall provide all information reasonably necessary (including, without limitations, supporting declaration) for the Settlement Administrator to issue notice to each Class Member and for Plaintiffs' Counsel and their experts to finalize the Plan of Allocation;

(b) not later than twenty-one (21) business days after the entry of this Order (the "Notice Date"), the Settlement Administrator shall: (i) send through the United States mail, by first-class mail, postage prepaid, the Summary Notice, and (ii) send through email the Summary Notice to each royalty owner with an e-mail address identified in the information provided by Defendant;

(c) contemporaneously with the mailing of the Summary Notice, the Settlement Administrator shall cause a copy of the Long Form Class Notice to be posted on a website to be developed for the Settlement, from which copies of the Long Form Class Notice can be downloaded;

5. **Approval of Form and Content of Notice:** The Court (a) approves, as to form and content, the Summary Notice and Long Form Class notice, attached hereto as Exhibits 1 and 2, respectively, and (b) find that the mailing and distribution of the Long Form Class Notice and the publication of the Summary Notice in the manner and form set forth in paragraph 4 of this Order (i) is the best notice practicable under the circumstances; (ii) constitutes notice that is reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the Action, of the effect of the proposed Settlement (including the Releases to be provided thereunder), of Class Counsel's motion for attorneys' fees and Litigation Expenses, of their right to object to the Settlement, the Plan of Allocation, and/or Class Counsel's motion for attorneys' fees and Litigation Expenses, of their right to exclude themselves from the Class, and of their



right to appear at the Fairness Hearing; (iii) constitutes due, adequate, and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (iv) satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause), and all other applicable law and rules. The date and time of the Fairness Hearing shall be included in the Notice and Summary Notice before they are mailed and published, respectively.

6. **Notice Recipients:** Class Notice shall inform recipients that if they owned any royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant between January 1, 2008 and the February 28, 2014, but no longer own such interest, they must notify the Settlement Administrator or Class Counsel within forty-five (45) calendar days of the Notice Date whether they retained any rights to any proceeds of this Litigation; if not, any proceeds from the Settlement will be paid to the royalty owner as reflected in DEPCO's pay histories for such interest as of the February 2014 production month, or last production month in time prior thereto.

7. **CAFA Notice:** As provided in the Settlement, Defendant shall serve the notice required under the Class Action Fairness Act, 28 U.S.C. § 1715 *et seq.* ("CAFA"), no later than ten (10) calendar days following the filing of the Settlement with the Court. Defendant is solely responsible for the costs of the CAFA notice and administering the CAFA notice. No later than seven (7) calendar days before the Fairness Hearing, Defendant shall cause to be served on Class Counsel and filed with the Court proof, by affidavit or declaration, regarding compliance with 28 U.S.C. § 1715(b).

8. **Opt-Out Requests:** Any member of the Class who does not wish to remain in the Class must submit a request to opt out of the Class ("Opt-Out Request") to the Settlement

Administrator at the address specified in the Class Notice no later than forty-five (45) calendar days after the Notice Date. To be effective, the Opt-Out Request must be: (i) sent via first-class U.S. mail to the specified address; (ii) include, the Class Member's full name, tax identification number, owner number or Bus. Assoc. #, mailing address, telephone number, and email address; (iii) explicitly and unambiguously state his or her desire to opt out of the Class in *Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher v. Devon Energy Production Company, L.P.*, Civil Action No. 3:16-cv-00082-K (N.D. Tex.); and (iv) be individually and personally signed by the Class Member (if the Class Member is represented by counsel, it must also be signed by such counsel). The Settlement Administrator will maintain a list of all Opt Out Requests and shall provide the list to DEPCO and Class Counsel sixty (60) calendar days after the Notice date and to the Court seven (7) calendar days prior to the Fairness Hearing.

(9) Any person or entity who or which timely and validly requests an opt out in compliance with the terms stated in this Order and is excluded from the Class shall not be a Class Member, shall not be bound by the terms of the Settlement or any orders or judgments in the Litigation, and shall not receive any payment out of the Settlement Fund.

(10) Any Class Member who or which does not timely and validly request an opt out from the Class in the manner stated in this Order: (a) shall be deemed to have waived his, her, or its right to be excluded from the Class; (b) shall be forever barred from requesting exclusion from the Class in this or any other proceeding; (c) shall be bound by the provisions of the Settlement and all proceedings, determinations, order, and judgment in this Litigation, including, but not limited to, the Judgment, if applicable, and the Releases provided for therein, whether favorable or unfavorable to the Class; and (d) will be barred from commencing, maintaining, or

prosecuting any of the Released Claims against any of the Parties' Releasees, as more fully described in the Settlement.

11. **Objection to the Settlement:** Any Class Member who does not request an opt-out from the Class may enter an appearance in this Litigation, at his or her own expense, individually or through counsel of his or her choice, by filing with the Clerk of Court and delivering a notice of appearance to both Class Counsel and designated Defendant's Counsel, at the addresses set forth in paragraph 12 below, such that it is received no later than ninety (90) calendar days after the Notice Date, or as the Court may otherwise direct. Any Class Member who does not enter an appearance will be represented by Class Counsel.

12. Any Class Member who does not request exclusion from the Class may file a written objection to the proposed Settlement, the proposed Plan of Allocation, and/or Class Counsel's motion for attorneys' fees and Litigation Expenses and appear and show cause, if he or she has any cause, why the proposed Settlement, the proposed Plan of Allocation, and/or Class Counsel's motion for attorneys' fees and Litigation Expenses should not be approved; *provided, however*, that no Class Member shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement, the proposed Plan of Allocation, and/or the motion for attorneys' fees and Litigation Expenses unless that person has filed a written objection with the Court and served copies of such objection on Class Counsel and designated Defendant's Counsel at the addresses set forth below such that they are received no later than twenty-one (21) calendar days prior to the Fairness Hearing.

**Class Counsel**

Geoffrey C. Jarvis  
Melissa L. Troutner  
KESSLER TOPAZ MELTZER & CHECK, LLP  
280 King of Prussia Road

Radnor, PA 19087  
Tel: (610) 667-7706  
Fax: (610) 667-7056  
Email: gjarvis@ktmc.com  
Email: mtroutner@ktmc.com

**Defendant's Counsel**

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Tel: (214) 969-1700  
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Email: Craig.Haynes@tklaw.com  
Email: Jeff.Ballew@tklaw.com  
Email: Rachelle.Glazer@tklaw.com  
Email: Julie.Abernethy@tklaw.com

13. Any objections, filings, and other submissions by the objecting Class Members: must include: (a) the name, address, and telephone number of the person objecting and the signature of the objector; (b) the specific grounds for the Class Member's objection, including any legal and evidentiary support the Class Member wishes to bring to the Court's attention and whether the objection applies only to the objector, to a specific subset of the Class, or to the entire Class; (c) a copy of the Class Member's oil and gas lease; (d) copies of any papers, briefs, or other documents upon which the objection is based; (e) the name, address, email address, and telephone number of every attorney representing the objectors; and (f) a statement indicating whether the objector and/or his or her counsel intends to appear at the Fairness Hearing and, if so, a list of all persons, if any, who will be called to testify in support of the objection.

14. Any Class Member who does not make his or her objection in the manner provided herein may be deemed to have waived his or her right to object to any aspect of the proposed Settlement, the proposed Plan of Allocation, and Class Counsel's motion for an award of attorneys' fees and Litigation Expenses and shall be forever barred and foreclosed from objecting to the fairness, reasonableness, or adequacy of the Settlement, the Plan of Allocation, or the requested attorneys' fees and Litigation Expenses, or from otherwise being heard concerning the Settlement, the Plan of Allocation, or the requested attorneys' fees and Litigation Expenses in this or any other proceeding.

15. **Stay and Temporary Injunction:** Until otherwise ordered by the Court, the Court stays all proceedings in the Litigation other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement. Pending final determination of whether the Settlement should be approved, the Court bars and enjoins Plaintiffs and all other members of the Class from commencing or prosecuting any and all of the Released Claims against each and all of the Parties' Releasees.

16. **Settlement Administration Fees and Expenses:** All reasonable costs incurred in identifying Class Members and notifying them of the Settlement as well as in administering the Settlement shall be paid as set forth in the Settlement without further order of the Court.

17. **Settlement Fund:** The contents of the Settlement Fund held by Huntington National Bank (which the Court approves as the Escrow Agent) shall be deemed and considered to be in custodial legis of the Court, and shall remain subject to the jurisdiction of the Court, until such time as they shall be distributed pursuant to the Settlement and/or further order(s) of the Court.

18. **Termination of Settlement:** If the Settlement is terminated as provided in the Settlement Agreement, the Settlement is not approved, or the Effective Date of the Settlement otherwise fails to occur, this Order shall be vacated, rendered null and void, and be of no further force and effect, except as otherwise provided by the Settlement, and this Order shall be without prejudice to the rights of Plaintiffs, Class Members, and Defendants, and the Parties shall revert their respective positions in the Litigation as of October 15, 2020.

19. **Use of this Order:** Neither this Order, the Settlement Agreement (whether or not consummated), including the exhibits thereto and the Plan of Allocation contained therein (or any other plan of allocation that may be approved by the Court), the negotiations leading to the execution of the Settlement Agreement, nor any proceedings taken pursuant to or in connection with the Settlement agreement and/or approval or the Settlement (including any arguments proffered in connection therewith): (a) shall be offered against any of the Defendant's Releasees as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Defendants' Releasees with respect to the truth of any fact alleged by Plaintiffs or the validity of any claim that was or could have been asserted or the deficiency of any defense that has been or could have been asserted in this Litigation or in any other litigation, or of any liability, negligence, fault, or other wrongdoing of any kind of any of the Defendant's Releasees or in any way referred to for any other reason as against any of the Defendant's Releasees, in any arbitration proceeding or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Settlement Agreement; (b) shall be offered against any of the Plaintiffs' Releasees, as evidence of, or construed as, or deemed to be evidence of any presumption, concession, or admission by any of the Plaintiffs' Releasees that any of their claims are without merit, that any of the

Defendant's Releasees had meritorious defenses, or that damages recoverable under the Amended Complaint would not have exceeded the Settlement Amount or with respect to any liability, negligence, fault, or wrongdoing of any kind, or in any way referred to for any other reason as against any of the Plaintiffs' Releasees, in any arbitration proceedings or other civil, criminal, or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of the Settlement Agreement; or (c) shall be construed against any of the Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; provided, however, that if the Settlement Agreement is approved by the Court, the Parties, and the Releasees and their respective counsel may refer to it to effectuate the protections from liability granted thereunder or otherwise to enforce the terms of the Settlement.

20. **Supporting Papers:** Class Counsel shall file and serve the opening papers in support of the proposed Settlement, the proposed Plan of Allocation, and Class Counsel's motion for attorneys' fees and Litigation Expenses no later than seventy-five (75) calendar days after the Notice Date; and reply paper, if any, shall be filed no later than seven (7) calendar days prior to the Fairness Hearing.

**SO ORDERED**

Signed this \_\_\_ day of \_\_\_\_\_, 2021

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The Honorable Ed Kinkeade  
United States District Judge

# EXHIBIT B



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M.  
SEELIGSON, SUZANNE SEELIGSON  
NASH, and SHERRI PILCHER, individually  
and on behalf of all others similarly situated,

*Plaintiffs,*

v.

DEVON ENERGY PRODUCTION  
COMPANY, L.P.,

*Defendant.*

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§ Case No. 3:16-cv-00082-K  
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**DECLARATION OF JAMES PRUTSMAN REGARDING:  
(A) MAILING AND PUBLICATION OF NOTICE; AND  
(B) REPORT ON REQUESTS FOR EXCLUSION RECEIVED**

I, James Prutsman, declare as follows:

1. I am a Senior Director of Kroll Settlement Administration, LLC (f/k/a Heffler Claims Group or Heffler Claims Administration, LLC, “Kroll”), in Philadelphia, Pennsylvania. I am over 21 years of age and am authorized to make this declaration on behalf of Kroll and myself. The following statements are based on my personal knowledge and information provided by other experienced Kroll employees working under my supervision. This declaration is being filed in connection with Plaintiffs’ motion for final approval of the settlement reached in the above-captioned action (“Action”).

2. Kroll has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, employment and labor, consumer, and government enforcement matters. Kroll has provided notification and/or claims administration services in more than 3,000 cases.

3. Pursuant to the Court's Order Preliminarily Approving Settlement and Providing for Notice dated January 14, 2021 (ECF No. 251) ("Preliminary Approval Order"), Kroll was appointed as the Settlement Administrator to provide notification and administration services in connection with the settlement of the Action ("Settlement"). Kroll's duties in this Action have and will include: (a) receiving and analyzing the Potential Class Member Contact List ("Class List"); (b) creating and maintaining an informational website; (c) establishing and maintaining a toll-free number; (d) establishing a post office box for the receipt of mail; (e) preparing and sending notice to Class Members via First Class Mail; (f) establishing an email address to receive Class Member inquiries; (g) publishing notice in various media outlets; (h) receiving and processing mail from the United States Postal Service ("USPS") with forwarding addresses; (i) receiving and processing undeliverable mail from the USPS; (j) receiving and processing opt outs; and (k) such other tasks as counsel for the Parties or the Court orders Kroll to perform.

4. In anticipation of commencing the administration of the Settlement, Kroll, on December 15, 2020, obtained a post office box with the mailing address Devon Settlement Administrator, c/o Settlement Administrator, P.O. Box 169, Warminster, PA, in order to receive requests for exclusion and other correspondence from Class Members.

5. Also on December 15, 2020, Kroll received from Class Counsel Word versions of the Long-Form Class Notice and Summary Notice. Kroll prepared and formatted these materials for Class Counsel's approval.

6. On February 1, 2021, following the Court's entry of the Preliminary Approval Order and in accordance with the Parties' Settlement Agreement, Kroll received one (1) data file. This file included 13,260 records which contained the names and contact information for Class Members. After Kroll consolidated the duplicate records, a total of 7,836 actionable records

remained. In order to provide the best notice practicable, Kroll ran the updated Class List through the USPS' National Change of Address ("NCOA") database and updated the Class List with address changes received from the NCOA.

7. On February 9, 2021, Kroll created and is currently hosting a dedicated website for the Settlement entitled <http://www.seeligsonsettlement.com/>. The website went live on February 10, 2021. The website contains detailed information regarding the Action and the Settlement, relevant documents, including the Settlement Agreement, the Initial Plan of Allocation, the Long Form Class Notice, and the Preliminary Approval Order, and a list of frequently asked questions. The website also provides Class Members with the ability to look up and determine if they are members of the Class using an easy to use search function.

8. On February 9, 2021, Kroll created a dedicated email address, [Info@SeeligsonSettlement.com](mailto:Info@SeeligsonSettlement.com), to receive and reply to email inquiries from Class Members about the Settlement.

9. On February 10, 2021, Kroll established and currently maintains a toll-free number, 833-537-1190, for Class Members to call and obtain additional information regarding the Settlement through an Interactive Voice Response ("IVR) system and/or by connecting to a live agent.

10. On February 10, 2021, Kroll caused 7,836 postcard Summary Notices to be mailed via First Class Mail to the individuals and entities contained on the Class List. A true and correct copy of the postcard Summary Notice is attached hereto as Exhibit A. Kroll also posted the Long Form Class Notice to the dedicated Settlement website. A true and correct copy of the Long Form Class Notice is attached hereto as Exhibit B.

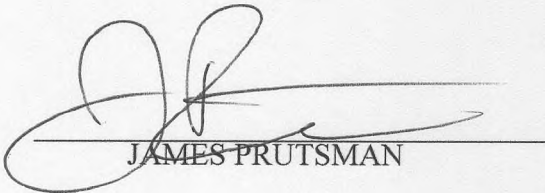
11. The required media campaign commenced on February 10, 2021 and was completed by February 21, 2021. The Summary Notice was published in the *Dallas Morning News*, *Fort Worth Star Telegram*, *Denton Record Chronicle*, and the *Wise County Messenger*. Attached hereto as Exhibit C are true and correct copies of the publications.

12. A total of 23 postcard Summary Notices were returned by the USPS as undeliverable as addressed. Heffler is re-mailing Summary Notices to any updated addresses that are found through the skip-trace process.

13. The notices informed Class Members that requests for exclusion from the Class (i.e., "opt-outs") were to be sent to the Settlement Administrator by March 29, 2021. As of April 23, 2021, Kroll has not received any exclusion requests.

14. Kroll has not received any objections to the Settlement.

I declare under penalty of perjury under the laws of the State of Texas that the above is true and correct to the best of my knowledge and that this Declaration was executed on April 23, 2021 in Oklahoma City, OK.



JAMES PRUTSMAN

# EXHIBIT A

Devon Settlement Administrator  
c/o Heffler Claims Group  
PO Box 169  
Warminster, PA 18974-0169

Presorted  
First-Class Mail  
US Postage  
PAID  
Lansdale, PA  
Permit No. 491

Electronic Service Requested

**If you are or were a royalty owner and received payments from Devon Energy Production Company from one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant, you may be entitled to benefits afforded by a class action settlement.**



Class Member ID: [REDACTED]

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A proposed class action settlement (“Settlement”) has been reached in a lawsuit against Devon Energy Production Company (“DEPCO”) concerning the calculation of royalty payments for wells producing natural gas processed at the Bridgeport Gas Processing Plant. DEPCO has denied, and continues to deny, any wrongdoing or liability whatsoever. The Settlement resolves the lawsuit and provides benefits to Class Members. **This notice provides basic information. You should review the detailed notice (“Long-Form Notice”) found on the website, [www.SeeligsonSettlement.com](http://www.SeeligsonSettlement.com), for more information.**

**Am I Involved?** You may be a member of the Court-certified Class if you are or were a royalty owner in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP, an affiliate of DEPCO, between January 1, 2008 and February 28, 2014 and received royalties from DEPCO on such gas. For more information regarding who is a member of the Class, please review the Long-Form Notice.

**What does the Settlement provide?** Pursuant to the Settlement, DEPCO will pay \$28 million in cash into a settlement fund to resolve the lawsuit. This amount, plus accrued interest, after deductions based on opt out requests received and the deduction of Court-awarded attorneys’ fees and expenses, notice and administration costs, and taxes, will be allocated among Class Members, in exchange for the settlement of the lawsuit and the release of all claims asserted in the lawsuit and related claims.

**Do I Need An Attorney?** The Court has appointed lawyers to represent the Class in this lawsuit. Class Members will not be obligated to pay any of the attorneys’ fees, expenses or costs for these lawyers. You may hire your own attorney, at your own expense.

**What are my options?** If you are a Class Member and want to receive benefits that may come if the Settlement is approved, you do not need to take any further action (however, if you owned royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant, but transferred your interest, see Section 9 in the Long-Form Notice). If you are eligible for a payment from the Settlement, data from DEPCO will be used to calculate your payment. By remaining in the Class, however, you are giving up the right to sue Defendant in a different lawsuit about the same legal claims in this lawsuit. If you do not want to be legally bound by any releases, judgments, or orders in the lawsuit and keep any right you may have to sue DEPCO for the claims involved in the lawsuit, you must opt out of the Class by **Monday, March 29, 2021**. If you opt out, you will not be eligible to receive any benefits of the Settlement. If you are a Class Member and want to object to any aspect of the Settlement, you must do so by **Tuesday, May 11, 2021**. The Long-Form Notice provides instructions on how to opt out from the Class, or object to the Settlement, and you must comply with all of the instructions in the Long-Form Notice.

**When is the Fairness Hearing?** A hearing will be held on **Tuesday, June 15, 2021 at 10:00 a.m.**, before the Honorable Ed Kinkeade, at the United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas 75242-1003, to determine if the Settlement, plan of allocation, and request for attorneys’ fees and expenses should be approved. Supporting papers will be posted on the website once filed. **For more information, call 1-833-537-1190, email [info@seeligsonsettlement.com](mailto:info@seeligsonsettlement.com), or visit [www.Seeligsonsettlement.com](http://www.Seeligsonsettlement.com).**

# EXHIBIT B



UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

**If you are or were a royalty owner and received payments from Devon Energy Production Company from one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant, you may be entitled to benefits afforded by a class action settlement.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- This notice (“Long-Form Notice” or “Notice”) is being issued pursuant to Rule 23 of the Federal Rules of Civil Procedure and an order of the United States District Court for the Northern District of Texas (“Court”). The purpose of this Notice is to advise you of the pendency of a class action, where the Named Plaintiffs – four royalty owners – have sued Devon Energy Production Company (“DEPCO” or “Defendant”) alleging underpayment of royalties. Named Plaintiffs and DEPCO are referred to herein as the “Parties.” The class action, pending in the United State District Court for the Northern District of Texas, is entitled *Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher v. Devon Energy Production Company, L.P.*, No. 3:16-cv-00082-K (“Action” or “Lawsuit”).
- This Notice also advises that the Parties to the Action have agreed to settle the Action (“Settlement”). This Notice explains the Lawsuit, the Settlement, your legal rights, available benefits, who is eligible for them, and how to get them. As a Class Member, you have various options that you may exercise before the Court decides whether to approve the Settlement.
- **Your legal rights are affected whether you act or don’t act. This Notice includes important information about the Lawsuit and the Settlement.<sup>1</sup> Please read this Notice carefully.**
- The Settlement with DEPCO will provide \$28,000,000 in cash to resolve the Class’s claims against Defendant (“Settlement Fund”). The Settlement Fund, after certain deductions described herein, will be allocated to Class Members pursuant to the proposed plan of allocation, which can be reviewed at <http://www.seeligsonsettlement.com>.
- The Court in charge of this Action still has to decide whether to approve the Settlement. Payments will be made to Class Members only if the Court approves the Settlement and after appeals, if any, are resolved. The Court has scheduled a fairness hearing (“Fairness Hearing”) to decide on final approval of the Settlement, the plan for allocating the Settlement Fund to Class Members, and Class Counsel’s request for attorneys’ fees and expenses, and service awards to the Named Plaintiffs. The Fairness Hearing is scheduled for Tuesday, June 15, 2021 before U.S. District Court Judge Honorable Ed Kinkeade at 10:00 a.m.
- Judge Kinkeade of the United States District Court for the Northern District of Texas certified this Lawsuit as a class action, and certified the following Class:

All persons or entities who, between January 1, 2008 and February 28, 2014, (i) are or were royalty owners in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP (“DGS”); (ii) received royalties from Devon Production Company, L.P. (“DEPCO”) on such

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<sup>1</sup> The full terms of the Settlement are set forth in Stipulation and Agreement of Settlement, dated December 30, 2020 (the “Settlement Agreement”), a copy of which can be viewed on the Settlement website, [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com). All capitalized terms used herein and not otherwise defined herein have the meanings set forth in the Settlement Agreement. In the event of any conflicts between the terms of this Notice and the Settlement Agreement, the Settlement Agreement shall control.

gas; (iii) had oil and gas leases that were on one of the following forms: Producers 88-198(R) Texas Paid-Up (2/93); MEC 198 (Rev. 5/77); Producers 88 (Rev. 10-70 PAS) 310; Producers 88 Revised 1-53—(With Pooling Provision); Producers 88 (2-53) With 640 Acres Pooling Provision; Producers 88 (3-54) With 640 Acres Pooling Provision; Producers 88 (4-76) Revised Paid Up with 640 Acres Pooling Provision; Producers 88 (7-69) With 640 Acres Pooling Provision; and Producers 88 (Rev. 3-42) With 40 Acres Pooling Provision (the “Class Lease Forms”); and (iv) had one or more of the oil and gas leases listed on the “Class Lease List”.

Excluded from the Class are: (1) overriding royalty interest owners who derive their interest through the oil and gas lease; (2) all governmental entities, including federal, state, and local governments and their respective agencies, departments, or instrumentalities; (3) the States and territories of the United States or any foreign citizens, states, territories, or entities; (4) the United States of America; (5) publicly traded entities and their respective parents, affiliates, and related entities; (6) owners of any interests and/or leases located on or within any federally created units; (7) owners of any non-operating working interest for which DEPCO or its agents or representatives, as operator, disburses royalty; (8) DEPCO and any entity in which DEPCO has a controlling interest, and their officers, directors, legal representatives and assigns; and (9) members of the judiciary and their staff to whom this Action is assigned.

See Section 5 below for more information regarding who is a member of the Class.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING</b>	<p><b>Stay in this Lawsuit. Receive the benefits of this Settlement if it is approved. Give up certain rights.</b></p> <p>You do not need to take any action to remain part of the Class and, if eligible, receive a payment from the Settlement (<i>see</i> Section 9 below); however, if you owned a royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant, but transferred your interest, you may need to provide additional information (<i>see</i> Section 9 below). If you remain a member of the Class, you are giving up the right to sue Defendant in a different lawsuit about the same legal claims in this Lawsuit.</p> <p>You may, if you wish, comment in favor of the Settlement by sending your comment to Class Counsel: Geoffrey C. Jarvis and Melissa L. Troutner, of Kessler Topaz Meltzer &amp; Check, LLP, 280 King of Prussia Road, Radnor, PA 19087 or by email to the email address: info@seeligsonsettlement.com.</p>
<b>ASK TO OPT OUT OF THE CLASS NO LATER THAN MARCH 29, 2021</b>	<p><b>Get out of this Lawsuit. Get no money or benefits from the Settlement. Keep any rights you may have to sue Defendant about the same legal claims in this Lawsuit.</b></p> <p>If you request to opt out of the Class, you will not be able to share in the Settlement benefits. But, you will keep any rights you may have.</p> <p>If you wish to opt out of the Class, your opt out request must include your full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address, a clear statement that you wish to opt out of the Class, and be personally signed by you (and your lawyer if you are represented by counsel).</p>

	<p>Your opt out request must be sent to the Settlement Administrator at <b>Devon Settlement Administrator, c/o Heffler Claims Group, P.O. Box 169, Warminster, PA 18974-0169.</b></p> <p>If your opt out request is properly submitted on or before the deadline, you will not be bound by the terms of the Settlement, and you will be free, if you choose, to pursue your own lawsuit against Defendant. If you do not submit a clear and timely opt out request, you will be bound by the Settlement Agreement and relinquish any claims against Defendant about the legal claims in this Lawsuit.</p>
<p><b>OBJECT TO THE SETTLEMENT NO LATER THAN MAY 11, 2021</b></p>	<p><b>Object to the Settlement.</b></p> <p>If you are a member of the Class, you may object to the Settlement, the Plan of Allocation, Class Counsel’s request for attorneys’ fees and expenses, or the request for Named Plaintiffs’ service awards.</p> <p>You may, but need not, select an attorney to appear at the Fairness Hearing on your behalf. If you do, you will be responsible for your own attorneys’ fees and costs.</p> <p>If you object to the proposed Settlement, or any aspect thereof, you must do so in writing on or before <b>Tuesday, May 11, 2021</b>. Your written objection must include:</p> <ul style="list-style-type: none"> <li>• Your full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address;</li> <li>• A copy of your oil and gas lease;</li> <li>• A written statement of all grounds for your objection, accompanied by any legal support for the objection;</li> <li>• Copies of any papers, briefs, or other documents upon which the objection is based;</li> <li>• The name, address, email address, and telephone number of every attorney representing the objector;</li> <li>• A statement indicating whether you and/or your counsel intends to appear at the Fairness Hearing and, if so, a list of all persons, if any, who will be called to testify in support of the objection; and</li> <li>• Your signature (and your counsel’s signature if you are represented by counsel).</li> </ul> <p>Your written objection must also be: (1) filed with the Clerk of the U.S. District Court for the Northern District of Texas, and (2) sent to: (A) Geoffrey C. Jarvis, Kessler Topaz Meltzer &amp; Check, LLP (Class Counsel), 280 King of Prussia Road, Radnor, PA 19087; and (B) Craig A. Haynes, Thompson &amp; Knight LLP (Defendant’s Counsel), 1722 Routh Street, Suite 1500, Dallas, TX 75201.</p>

- Any questions? Read this notice carefully and visit [www.SeeligsonSettlement.com](http://www.SeeligsonSettlement.com).

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## BASIC INFORMATION

### 1. Why is there a Notice?

The Court directed that this Notice be issued because the Parties in this Action have agreed to settle the Action. The Court “certified” this case as a class action lawsuit. If you are or were a royalty owner of DEPCO, in one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant between January 1, 2008 and February 28, 2014, you may be eligible to receive certain benefits, and have legal rights and options in this case. This notice explains all these things.

The Honorable Ed Kinkeade, Judge of the United States District Court for the Northern District of Texas, is overseeing this class action. The case is known as *Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher, individually and on behalf of all others similarly situated, v. Devon Energy Production Company, L.P.*, Case No. 3:16-cv-00082-K. The persons who sued, Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher, are called the Named Plaintiffs. The company they are suing, DEPCO, is called the Defendant.

### 2. Why is this Lawsuit a class action?

In a class action, one or more persons called class representatives (in this case, Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher) sue on behalf of people who have similar claims. All of these people who have similar claims collectively make up the “Class” and are called the “Class Members.” One lawsuit before one judge resolves the issues and claims for all class members together regardless of the outcome – favorable or unfavorable.

The Court decided that this Lawsuit could proceed as a class action under the requirements of Federal Rule of Civil Procedure 23. More information about why this is a class action can be found in the Court’s Class Certification Order, which is available at [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com).

The Court has not decided in favor of Named Plaintiffs or Defendant. Instead, both sides agreed to a Settlement with no decision or admission of who is right or wrong. That way, all Parties avoid the risks and cost of a trial, and the people affected (the Class Members) will get compensation quickly. The Named Plaintiffs and the attorneys think the Settlement is best for the Class.

The Court has authorized this Notice, but it is not an expression of an opinion by the Court as to the merits of any of the claims or defenses asserted by either side in the case.

## THE CLAIMS IN THE LAWSUIT

### 3. What is this Lawsuit about?

Named Plaintiffs Henry Seeligson, John M. Seeligson, Suzanne Seeligson Nash, and Sherri Pilcher are DEPCO lessors and royalty owners of Barnett Shale wells located in Tarrant, Denton, and Wise Counties, Texas that produced natural gas processed through the Bridgeport Gas Processing Plant. Named Plaintiffs allege their royalties were underpaid as a result of the wrongful acts and misconduct of Defendant. Named Plaintiffs allege Defendant violated the duty to market implied in the Class Members’ leases by colluding with its affiliate Devon Gas Services (“DGS”) to inflate the profits of their shared parent company at the expense of royalty owners. Their Amended Complaint has the following claims for relief: (a) breach of contract; and (b) breach of implied covenant to market. Named Plaintiffs contend Defendant is liable for these claims. Defendant denies all of the claims and allegations made in the Lawsuit and asserted counterclaims that it overpaid royalties.

This Notice does not describe all claims and defenses brought by the Parties. The section entitled “Getting More Information” describes the process by which you can get more information about the Action, claims, and defenses asserted.

#### 4. What has happened so far in the case?

This Action was filed by Named Plaintiffs in 2014. Defendant answered and filed a counterclaim for declaratory relief against Named Plaintiffs and a mandatory, counter-defendant class of royalty owners, requesting that the Court declare the respective rights of DEPCO and its royalty owners.

The Court has certified the Class described in Section 5 below.

The Parties agreed to a Settlement of the Action and informed the Court of such on October 16, 2020. By settling, Named Plaintiffs and Defendant avoid the risk of trial and the continued costs of litigation. Named Plaintiffs and Class Counsel believe that the proposed Settlement is fair, adequate, reasonable, and in the best interests of the Class.

### MEMBERS OF THE CLASS

#### 5. How do I know if I am part of the Class?

If you fit within the Class definition below and do not fall under any exclusion, you are a member of the Court-certified Class consisting of:

All persons or entities who, between January 1, 2008 and February 28, 2014, (i) are or were royalty owners in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP (“DGS”); (ii) received royalties from Devon Production Company, L.P. (“DEPCO”) on such gas; (iii) had oil and gas leases that were on one of the following forms: Producers 88-198(R) Texas Paid-Up (2/93); MEC 198 (Rev. 5/77); Producers 88 (Rev. 10-70 PAS) 310; Producers 88 Revised 1-53—(With Pooling Provision); Producers 88 (2-53) With 640 Acres Pooling Provision; Producers 88 (3-54) With 640 Acres Pooling Provision; Producers 88 (4-76) Revised Paid Up with 640 Acres Pooling Provision; Producers 88 (7-69) With 640 Acres Pooling Provision; and Producers 88 (Rev. 3-42) With 40 Acres Pooling Provision (the “Class Lease Forms”); and (iv) had one or more of the oil and gas leases listed on the “Class Lease List.”

The persons or entities excluded from the Class are: (a) overriding royalty interest owners who derive their interest through the oil and gas lease; (b) all governmental entities, including federal, state and local governments and their respective agencies, departments, or instrumentalities; (c) the States and territories of the United States or any foreign citizens, states, territories or entities; (d) the United States of America; (e) owners of any interests and/or leases located on or within any federally created units; (f) owners of any non-operating working interest for which DEPCO or its agents or representatives, as operator, disburses royalty; (g) DEPCO and any entity in which DEPCO has a controlling interest, and their officers, directors, legal representatives and assigns; and (h) members of the judiciary and their staff to whom this Action is assigned. Also excluded from the Class are any Class Member that requests exclusion from the Class in accordance with the instructions set forth in this Notice.

If you are still not sure whether you are included in the Class, contact the Settlement Administrator or Class Counsel, listed below or visit [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com) to look up whether you are a Class Member. Or, you may contact your own lawyer at your own expense.

#### 6. How do I keep my address current?

If you are a Class Member, you should have received a postcard Notice in the mail. If you did not receive a postcard Notice or if the postcard Notice you received was forwarded by the postal service, or sent to you at an address which is not current, you should immediately contact the **Devon Settlement Administrator, c/o Heffler Claims Group, P.O. Box 169, Warminster, PA 18974-0169, call, 1-833-537-1190, email, [info@seeligsonsettlement.com](mailto:info@seeligsonsettlement.com), or visit [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com)** and provide them with your current address.



**THE SETTLEMENT BENEFITS****7. What does the Settlement provide?**

Defendant has agreed to pay \$28,000,000 in cash into an interest-bearing escrow account (“Settlement Fund”) for the benefit of the Class. Pursuant to the Settlement, any monies allocated to volumes of opt outs (i.e., opt out requests) shall be returned to Defendant.

If approved by the Court, the Settlement Fund (including any accrued interest while in escrow), minus any deductions for funds that have been allocated to opt out requests (as noted above), Court awarded attorneys’ fees and expenses to Class Counsel, the cost of settlement notice and administration, any taxes, and Court awarded service awards to the Named Plaintiffs (the “Net Settlement Fund”) will be distributed to Class Members. Distributions to Class Members will be made based on the royalty payments made by DEPCO during the Class Period. Historical royalty payment data from Defendant will be used to make these calculations.

As part of the Settlement, Defendant and Class Members will be released and discharged from all claims asserted in the Lawsuit and all related claims (“Releasees” and “Released Claims” as defined in the Settlement Agreement). The full text of the agreed-upon Releases is included in the Settlement Agreement, available at [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com).

**8. When would I get my payment and how much would it be?**

Each Class Member’s recovery amount will be determined using a Court-approved Plan of Allocation. The detailed Plan of Allocation can be reviewed at [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com). Under the proposed Plan of Allocation, distribution of the Net Settlement Fund to Class Members will be made based on the royalty payments made by DEPCO during the Class Period. Apportioning the Net Settlement Fund among Class Members based on the historical royalty payments is consistent with the effect among Plaintiffs and members of the class of the artificial price reduction of royalties over the course of the Class Period that was allegedly caused by Defendant’s misconduct.

Money from the Settlement will only be distributed to Class Members if the Court grants final approval of the Settlement. Payment is conditioned on several matters, including the Court’s approval of the Settlement and such approval no longer being subject to any appeals to any court or, if there is an appeal, such appeal being final and no longer subject to any further appeal.

The Settlement Agreement may be terminated if the Court does not grant approval of the Settlement or materially modifies it. If the Settlement Agreement is terminated, the Lawsuit will proceed as if the Settlement had not been reached.

**9. How can I get a payment?**

If the Settlement is approved by the Court, the Settlement Administrator will distribute the Settlement Fund consistent with the Plan of Allocation. Historical royalty payment data from Defendant will be used to make these calculations. You may be asked to verify the information.

If you owned royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant between January 1, 2008 and February 28, 2014 but no longer own such interest, you must notify the Settlement Administrator by calling toll-free 833-537-1190, or writing to **Devon Settlement Administrator, c/o Heffler Claims Group, P.O. Box 169, Warminster, PA 18974-0169**, and advise whether you retained any rights to the proceeds of this Lawsuit. If you no longer own such interest and retained rights to proceeds of this Lawsuit, but fail to notify the Settlement Administrator no later than March 29, 2021, any proceeds of this Lawsuit will be paid to the royalty owner as reflected in DEPCO’s pay histories for such interest as of the February 2014 production month, or last production month in time prior thereto.

**YOUR RIGHTS AND OPTIONS****10. What happens if I do nothing at all?**

If you do nothing, you are choosing to stay in the Class. You will be subject to and bound by the Settlement Agreement and every order or judgment entered in the Lawsuit, and you will not be able to sue or continue to sue Defendant, in a different case, over the legal claims that are or could have been included in this Action. If the Settlement is approved, you may be entitled to share in the proceeds, less deductions for opt out requests (see Section 9 above), and such costs, expenses, and attorney's fees as the Court may allow out of such recovery. Do not request to opt out of the Class if you wish to participate in this Settlement as a Class Member.

**11. What happens if I opt out of the Class?**

If you opt out of the Class you will not be bound by any judgment in this Lawsuit, nor will you be entitled to share in this Settlement, but you may individually pursue any legal rights you may have against Defendant at your own expense. If you do opt out so you can start or continue your own lawsuit against Defendant, you should talk to your own lawyer, because your claims may be subject to a statute of limitations.

**12. Why would I ask to opt out of the Class?**

Grouping the class members into this one class action saves both time and expenses and allows the royalty owners' remedies to be quickly and efficiently decided. If you already have your own royalty underpayment lawsuit against Defendant and want to continue with it, you should opt out. If you choose to stay in the Class in this Lawsuit, you shall be subject to and bound by the Settlement Agreement and every order or judgment entered in the Lawsuit, and you will not be able to sue or continue to sue Defendant, in a different case, over the legal claims that are or could have been included in the Action.

Please Note: Defendant has the right to terminate the Settlement if valid Opt Out Requests are received from members of the Class in an amount that exceeds an amount agreed to by Named Plaintiffs and Defendant.

**13. How do I ask to opt out of the Class?**

To request to opt out of the Class, you must send an Opt Out Request in the form of a letter by mail, stating that you want to opt out of the Class in *Seeligson v. Devon Energy Production Company, L.P.* To be valid, your Opt Out Request must: (1) state the full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address of the person or entity requesting to opt out, (2) be signed by the individual or an officer of the entity requesting to opt out, and (3) be mailed to **Devon Settlement Administrator, c/o Heffler Claims Group, P.O. Box 169, Warminster, PA 18974-0169**, and postmarked no later than **March 29, 2021**. Your "Bus Assoc #", or owner number, can be found on your Statement of Oil & Gas Payments. If your Opt Out Request is not properly submitted on or before **March 29, 2021**, you will be considered a Class Member, and you will be bound by any final judgment in this Lawsuit.

**14. How do I object to the Settlement?**

If you are a member of the Class, you may object to the Settlement, the Plan of Allocation, Class Counsel's request for attorneys' fees and expenses, or the request for Named Plaintiffs' service awards. If you object to the proposed Settlement, you must do so in writing **on or before Tuesday, May 11, 2021**. Your written objection must include:

- Your full name, tax identification number, owner number or Bus Assoc #, mailing address, telephone number, and email address;
- A copy of you oil and gas lease;
- A written statement of all grounds for your objection, accompanied by any legal support for the objection;
- Copies of any papers, briefs, or other documents upon which the objection is based;
- The name, address, email address, and telephone number of every attorney representing you;



- A statement indicating whether you and/or your counsel intends to appear at the Fairness Hearing and, if so, a list of all persons, if any, who will be called to testify in support of the objection; and
- Your signature (and your counsel's signature if you are represented by counsel).

Your written objection must also be: (1) filed with the Clerk of the U.S. District Court for the Northern District of Texas, and (2) sent to: (A) Geoffrey C. Jarvis, of Kessler Topaz Meltzer & Check, LLP (Class Counsel), 280 King of Prussia Road, Radnor, PA 19087; and (B) Craig A. Haynes, Thompson & Knight LLP (Defendant's Counsel), 1722 Routh Street, Suite 1500, Dallas, TX 75201.

You may, but need not, select an attorney to appear at the Fairness Hearing on your behalf. If you do, you will be responsible for your own attorneys' fees and costs.

## THE LAWYERS APPOINTED TO REPRESENT YOU

### 15. Do I have a lawyer in this case?

The Court appointed the attorneys listed below to serve as Class Counsel to represent you and other Class Members. They are experienced in handling similar cases.

Geoffrey Jarvis  
Melissa Troutner  
KESSLER TOPAZ  
MELTZER & CHECK, LLP  
280 King of Prussia Road  
Radnor, PA 19087  
Tel: (610) 667-7706  
Email: gjarvis@ktmc.com  
Email: mtroutner@ktmc.com

David Drez III  
WICK PHILLIPS  
GOULD & MARTIN, LLP  
100 Throckmorton Street  
Fort Worth, TX 76102  
Tel: (817) 332-7788  
Email: david.drez@wickphillips.com

Brad Seidel  
SEIDEL LAW FIRM, PC  
6 Hedge Lane  
Austin, TX 78746  
Tel: (512) 537-0903  
Email: brad@seidelpc.com

Jack Mattingly, Jr.  
MATTINGLY & ROSELIUS, PLLC  
215 East Oak Avenue  
Seminole, OK 74868  
Tel: (405) 382-3333  
Email: jackjr@mroklaw.com

### 16. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel have been appointed by the Court to represent you and all the other members of the Class. You can hire your own lawyer, at your own expense, if you want someone other than Class Counsel to speak for you.

### 17. How will the lawyers be paid?

The Court will be asked to approve reasonable fees and expenses for the lawyers who worked on the case of up to one-third of the Settlement Fund plus reimbursement for the litigation expenses they have advanced on behalf of the Class. Class Counsel will also ask for service awards for the Named Plaintiffs of up to \$80,000 from the Settlement Fund in the aggregate in recognition of their efforts to date on behalf of the Class. If the Court grants Class Counsel's requests, such attorneys' fees, expenses, and service awards would be deducted from the Settlement Fund. Members of the Class will not have to pay any attorneys' fees or expenses out of their own pockets.

Any application by Class Counsel for an award of attorneys' fees, reimbursement of expenses, and service awards to the Named Plaintiffs will be filed with the Court and made available for download and/or viewing on or before June 15, 2021 on [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com), as well as the offices of the Clerk of the Court, United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas, 75242, under Civil Action 3:16-cv-00082.

**GETTING MORE INFORMATION**

**18. Is more information about the Lawsuit available?**

This Notice gives only a summary of the Settlement and Lawsuit. More information is available by visiting [www.seeligsonsettlement.com](http://www.seeligsonsettlement.com), calling toll-free 833-537-1190, or writing to **Devon Settlement Administrator, c/o Heffler Claims Group, P.O. Box 169, Warminster, PA 18974-0169**. You may also contact Class Counsel listed above.

Complete copies of the pleadings, orders, and other documents filed in this case are available at <http://www.pacer.gov> or the office of the Clerk of the Court, United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas, 75242, under Civil Action 3:16-cv-00082.

DATE: February 20, 2021

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

# EXHIBIT C



# Weather records, watch out

Continued from Page 1B

Thursday, and minor accumulations on roads and bridges in some areas could affect travel, the weather service cautioned.

Ahead of the wintry weather, Texas Department of Transportation crews began treating roads Monday. TxDOT uses a mixture of salt and water called brine, which lowers the freezing point of water, to help prevent icy conditions.

Highs much of the week are

expected to be in the 30s, with lows in the 20s, and they are likely to drop even more by the weekend, said Juan Hernandez, a National Weather Service meteorologist.

By Sunday, highs aren't expected to get out of the 20s, with lows in the teens, Hernandez said.

With temperatures overnight Saturday expected to fall to about 15, the wind will make it feel more like 1 to 4 degrees, the weather service said.

Temperatures could even drop enough to break records Sunday, Hernandez said.

"It's definitely possible," he said. "We can't rule it out."

The record low for Feb. 14 is 15 degrees, set in 1936, according to the weather service.

By early next week, North Texas could be at risk for a wintry mix or some snow, but forecasts remain uncertain, NBC5 said.

Twitter: @jesus\_jimz



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## If you are or were a royalty owner and received payments from Devon Energy Production Company from one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant, you may be entitled to benefits afforded by a class action settlement.

A proposed class action settlement ("Settlement") has been reached in a lawsuit against Devon Energy Production Company ("DEPCO") concerning the calculation of royalty payments for wells producing natural gas processed at the Bridgeport Gas Processing Plant. DEPCO has denied, and continues to deny, any wrongdoing or liability whatsoever. The Settlement resolves the lawsuit and provides benefits to Class Members. This notice provides basic information. You should review the detailed notice ("Long-Form Notice") found on the website, [www.SeeligsonSettlement.com](http://www.SeeligsonSettlement.com), for more information.

### Am I Involved?

You may be a member of the Court-certified Class if you are or were a royalty owner in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP, an affiliate of DEPCO, between January 1, 2008 and February 28, 2014 and received royalties from DEPCO on such gas. For more information regarding who is a member of the Class, please review the Long-Form Notice.

### What does the Settlement provide?

Pursuant to the Settlement, DEPCO will pay \$28 million in cash into a settlement fund to resolve the lawsuit. This amount, plus accrued interest, after deductions based on opt out requests received and the deduction of Court-awarded attorneys' fees and expenses, notice and administration costs, and taxes, will be allocated among Class Members, in exchange for the settlement of the lawsuit and the release of all claims asserted in the lawsuit and related claims.

### Do I Need An Attorney?

The Court has appointed lawyers to represent the Class in this lawsuit. Class Members will not be obligated to pay any of the attorneys' fees, expenses or costs for these lawyers. You may hire your own attorney, at your own expense.

### What are my options?

If you are a Class Member and want to receive benefits that may come if the Settlement is approved, you do not need to take any further action (however, if you owned royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant, but transferred your interest, see Section 9 in the Long-Form Notice). If you are eligible for a payment from the Settlement, data from DEPCO will be used to calculate your payment. By remaining in the Class, however, you are giving up the right to sue Defendant in a different lawsuit about the same legal claims in this lawsuit. If you do not want to be legally bound by any releases, judgments, or orders in the lawsuit and keep any right you may have to sue DEPCO for the claims involved in the lawsuit, you must opt out of the Class by **March 29, 2021**. If you opt out, you will not be eligible to receive any benefits of the Settlement. If you are a Class Member and want to object to any aspect of the Settlement, you must do so by **May 11, 2021**. The Long-Form Notice provides instructions on how to opt out from the Class, or object to the Settlement, and you must comply with all of the instructions in the Long-Form Notice.

### When is the Fairness Hearing?

A hearing will be held on **June 15, 2021 at 10:00 a.m.**, before the Honorable Ed Kinkeade, at the United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas 75242-1003, to determine if the Settlement, plan of allocation, and request for attorneys' fees and expenses should be approved. Supporting papers will be posted on the website once filed. For more information, call 1-833-537-1190, email [info@seeligsonsettlement.com](mailto:info@seeligsonsettlement.com), or visit [www.SeeligsonSettlement.com](http://www.SeeligsonSettlement.com).

[www.SeeligsonSettlement.com](http://www.SeeligsonSettlement.com)  
1-833-537-1190

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LM OTERO AP

Dwight McKissic, pastor of Cornerstone Baptist Church in Arlington, is pondering whether he and his congregation should break away — following several other Black pastors who exited in dismay over race-related actions of some white SBC leaders.

## Southern Baptists face fractures over policy

BY DAVID CRARY  
AP National Writer

Divisions over race, politics, gender and LGBTQ issues are roiling America's largest Protestant denomination, the Southern Baptist Convention, ahead of a meeting of its executive committee next week.

On the agenda are two items reflecting those divisions: A recommendation that a church in Kennesaw, Georgia, be ousted from the SBC because it accepted LGBTQ people into its congregation, contravening Southern Baptist doctrine; and a report by an executive committee task force criticizing the widely respected leader of the SBC's public policy arm, the Rev. Russell Moore. Among the grievances against Moore: His outspoken criticism of Donald Trump during Trump's 2016 election campaign and his presidency.

Jim Conrad, the pastor of Towne View Baptist Church in Kennesaw, said he's at peace with the likelihood that his church will be "disfellowshipped" by the executive committee during its meeting Monday and Tuesday.

But Conrad sees broader challenges for the SBC as its stances on various sensitive issues are questioned from inside and outside.

"The problem the SBC is facing right now is this: In order to work with them, you've got to be in lockstep agreement with them on every point. Nine out of 10 won't get you by," Conrad said. "That's just a shame. They're going to limit themselves in terms of who's able to work them."

Some of the most volatile topics facing the SBC aren't on the executive committee agenda but have fueled passionate blog posts and social media exchanges in recent weeks. Among the issues:

- Some Black pastors have left the SBC and others are voicing their dismay over pronouncements by the SBC's six seminary presidents — all of them white — restricting how the subject of systemic racism can be taught at their schools.

- Several prominent SBC conservatives, citing church doctrine that bars women from being pastors, have questioned why the denomination's North American Mission Board has supported a few churches where women hold titles such as children's pastor and teaching pastor. The board says it seeks to persuade such churches to change those titles.

- The leadership continues to draw criticism from victims of church-related sexual abuse over promises made in 2019 to combat that problem. Activists say inquiries related to sex abuse should be handled by independent experts, not by the SBC's credentials committee.

Moore has been president of the SBC's Ethics and Religious Liberty Commission, or ERLC, since 2013. Though staunchly conservative on issues such as abortion and same-sex marriage, he has gained an audience outside the SBC with his speeches and writings, including criticism of Trump, condemnation of Christian Nationalism and support for a more welcoming immigration policy.

After the Jan. 6 storming of the U.S. Capitol by Trump supporters, Moore wrote on his blog, "This week we watched an insurrection of domestic terrorists, incited and fomented by the President of the United States." If he were a member of Congress, Moore wrote, he would vote to remove Trump from office even if it cost him his seat.

The task force's report on Moore doesn't demand

his ouster but urges him and other ERLC leaders to refrain from opposing specific candidates for political office and to limit their public comments to positions already established in SBC doctrine and resolutions.

The Rev. Mike Stone, the task force chairman, said the ERLC under Moore's leadership has been a "significant source of division" jeopardizing contributions to the SBC from its 47,000 affiliated churches.

Moore, who has declined public comment on the report, is likely to retain his post, at least for the short term.

Conrad, however, expects his church to be ousted, based on a letter he received Feb. 8 from the credentials committee asserting that Towne View Baptist "is not in friendly cooperation" with the SBC.

Towne View began welcoming LGBTQ worshippers in October 2019 after a same-sex couple with three adopted children asked Conrad if they could attend, a decision he defends as the right thing to do.

"The alternative would have been to say, 'We're probably not ready for this,' but I couldn't do that," said Conrad, pastor there since 1994.

Conrad has the option of appealing an expulsion, but he's making plans to affiliate at least temporarily with the Cooperative Baptist Fellowship, which allows its churches to set their own policies regarding LGBTQ inclusion.

Conrad says about 30% of his congregation — which now numbers about 125 — left his church over the issue, forcing some budget cutbacks, including a pay cut for Conrad.

"But we have had overwhelmingly positive feedback from the community," he said. "Letters, emails, Facebook messages, phone calls — people telling their own story of

rejection by their church and how grateful they'd be to find a place where they're welcome."

The most recent disfellowship of an SBC church occurred a year ago when the executive committee ousted Ranchland Heights Baptist Church of Midland, Texas, because it accused of a registered sex offender as pastor.

In 2019, the SBC leadership pledged strong action on sex abuse after news reports that hundreds of clergy and staff had been accused of misconduct over the previous 20 years. But critics remain dissatisfied.

Susan Codone, a professor who directs the Center for Teaching & Learning at Mercer University, was at the SBC's national meeting in 2109 and shared her story of being abused as a teenager by the youth minister and pastor at her Southern Baptist church in Alabama. She now says the SBC's credentials committee has failed in its response to allegations of abuse by pastors and staff.

"The chair of the committee, Mike Lawson, told me he is often worried about angering pastors with potential decisions," Codone said via email. "His reversal of victimhood is unacceptable since the committee members are not the victims of this bureaucracy — those filing the reports are the real victims."

Lawson, in comments also relayed by email, said many SBC churches were implementing anti-abuse policies, including staff training and victim-support programs.

"We know that in some cases, despite our best intentions or desires, we are unable to uncover all the answers, heal the hurts of those who've suffered unspeakable harm, or restore the dignity taken by those in trusted positions," he wrote.

## States' bills aim to protect drivers who hit marchers

BY SEAN MURPHY  
Associated Press

OKLAHOMA CITY

When massive demonstrations against racial injustice erupted across the nation last summer, protesters used an increasingly common tactic to draw attention to their cause: swarming out onto major roads to temporarily paralyze traffic.

This method sometimes resulted in searing images of drivers plowing through crowds, causing serious injuries and in some cases, deaths.

Now, Republican politicians across the country are moving to stop the road-blocking maneuver, proposing increased penalties for demonstrators who run onto highways and legal immunity for drivers who hit them. The bills are among dozens introduced in Legislatures aimed at cracking down on demonstrations.

"It's not going to be a peaceful protest if you're impeding the freedom of others," said Rep. Kevin McDugle, the author of an Oklahoma bill granting criminal and civil immunity to people who drive into crowds on roads. "The driver of that truck had his family in there, and they were scared to death."

He referred to an incident in July in which a pickup pulling a horse trailer drove through Black Lives Matter protesters on Interstate 244 in Tulsa. Three people were seriously injured, including a 33-year-old man who fell from an overpass and was left paralyzed from the waist down.

Tumultuous demonstrations by left-leaning and right-leaning groups have

stirred new debate about what tactics are acceptable free speech and which go too far. In addition to blocking roads, Black Lives Matter demonstrators have taken over parks and painted slogans on streets and structures, while right-wing groups have brandished firearms and stormed capitol buildings. Local authorities' responses have wavered as they try to avoid escalating conflicts.

Now legislators in Iowa, Missouri, Oklahoma, Utah and about a dozen other states have introduced new counter-protest measures.

The traffic-blocking tactic has attracted the most concern because of the obvious hazard.

In one particularly chilling incident in Minneapolis, a large tanker truck drove at high speed through thousands of protesters gathered on a closed highway. Remarkably, no one was seriously hurt, though a criminal complaint says at least one protester suffered abrasions.

Mark Faulk, a longtime Oklahoma activist who was arrested last year for blocking a roadway, said dramatic tactics are necessary to get people's attention.

"The idea of escalating it to the point where you disrupt the convenience of the citizens and of the status quo, you have to do that sometimes to make a point," Faulk said.

In St. Louis in May, a 29-year-old man was dragged to his death beneath a tractor-trailer that drove into a sign-carrying group on a road. Whether drivers face criminal charges in such incidents depends on the circumstances of each case, prosecutors say.

### If you are or were a royalty owner and received payments from Devon Energy Production Company from one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant, you may be entitled to benefits afforded by a class action settlement.

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#### What does the Settlement provide?

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#### Do I Need An Attorney?

The Court has appointed lawyers to represent the Class in this lawsuit. Class Members will not be obligated to pay any of the attorneys' fees, expenses or costs for these lawyers. You may hire your own attorney, at your own expense.

#### What are my options?

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# Few remember John Johnson, one of Texas' first Black lawyers

Long before there was a Martin Luther King Jr. dreaming of equality and a Thurgood Marshall filing landmark civil rights lawsuits in the 20th century, there was John N. Johnson of Brazos County doing the same, only he did it in the previous century.

He was a Black man, in Texas, during the dangerous years after Reconstruction ended and federal troops pulled out of the state.

The first time Johnson applied to Brazos County's district court to be a lawyer, he was rejected. The second time, he was rejected again.

After his third try, he made it. Why did it take so long?

The case can be made — and The Watchdog makes it in this Black History Month — that Johnson was far ahead of his time. On his legal plate as one of Texas' most important civil rights leaders, he fought on matters such as Blacks blocked from serving on juries, police abuse, mass incarceration of Black men, education inequalities, and segregation on public transportation.

All of this was done before 1900.

Johnson's name is not on any building. There's no plaque for him. No book has been written about him. There's not even a known photograph of Johnson, just a sketch from the turn of the century.

"He made all kinds of leading-edge arguments back at a time where you could literally be dead for making those kinds of arguments," says Randy Haynes, historic preservation officer for the city of Bryan, which is considering a historical marker. "What a gutsy guy."

We know about Johnson now because for the last seven years, John G. Browning, a Rockwall resident, lawyer and former appellate judge, spent time in dusty archives, courthouse basements and reading old Texas newspapers at the University of North Texas Digital Library.

Browning is editor of the Journal of the Texas Supreme Court Historical Society. He remembers finding Johnson's name on the rolls of court-approved attorneys. The date listed was Feb. 9, 1883.

"A chill went down my spine," he recalls. "Let me tell you, this was one of those eureka moments."

Johnson was raised by his mother, a laundress, after his father, a minister of the gospel, was murdered in the 1860s. Johnson came to Texas from Maryland around 1879, when he was in his late 20s. He was married and had a college education. "Professor Johnson" started in Texas as a teacher.

Johnson decided to become a lawyer. In Texas, there were about a dozen Black attorneys at the time. Browning, in his research, found that even as late as 1930 there were only 20 Black Texas lawyers.

Several Black lawyers throughout the South were shot and even killed. Judges and white lawyers often called Black lawyers by their first names, or even "boy."

Back when Johnson applied, lawyers didn't have to go to law school. Lawyers had to be approved by panels of lawyers, appointed by judges. Johnson faced all-white panels. No record exists of why his first try failed. On his second try, he told the panel he had read all the legal books he could to prepare. The panel ruled that he answered poorly on questions of "elementary principles" and had not shown "familiarity in the law as a science."

A Brenham newspaper reported the failure and said that "Johnson wants to carry out the old adage, 'If at first you don't succeed, try, try again.'"

He moved to Austin to teach, and it was there that he secured his law license. The *Austin Daily Statesman* reported that Johnson is "the first and only colored lawyer appearing at this bar. ... Johnson is an intelligent looking man, of dark color, and easy, fluent manner. ... He is treated with due consideration by the white members of the bar, and is given every chance to make



**Dave Lieber**  
THE WATCHDOG  
COMMENTARY

his mark."

In his spare time, he helped launch a newspaper, *The Austin Citizen*. His main interest was filing lawsuits designed to improve the lives of Black Texans.

He fought for prisoners killed by their guards who otherwise might have faced no punishment.

He challenged the railroads for forcing Blacks to pay full fare but relegating them to poor second-class accommodations, often in smoking cars. He lost in court, but in a meeting with railroad officials, he negotiated a settlement. No more lawsuits were filed. In return, the railroad promised separate but equal rail cars. News of the agreement was shared across the nation, and other railroads were expected to follow along.

As a defense lawyer, he raised the issue of all-white juries, ruling on the guilt or innocence of accused Blacks. "Hundreds of Negroes," he wrote, "are languishing in prisons who have been more the victim of prejudice instead of being the fruit of fair and impartial trials."

His reputation growing, he won the Republican nomination for Brazos County district attorney, but lost the race. A loyal Republican, Johnson was appointed by President Benjamin Harrison to a government job.

He moved to Washington, D.C., where he continued his fight, condemning police treatment of Blacks who were sometimes killed for, he said, "a petty offense." He offered to serve as prosecutor of police crimes.

He fought for the rights



Courtesy photo/John Browning

**This turn-of-the-century drawing of John Johnson from a newspaper is the only known image of him that exists.**

of Blacks to vote. He fought against lynching, saying, "Colored people are about the only people lynched, and therefore it is a race question."

Before he died in 1906, he became a medical doctor, too.

He was "a great advocate of justice and right," one obituary stated.

His plaque could be placed in front of the Brazos County Courthouse, where he was twice denied a law license. Or it could go to the Brazos Valley African American Museum in Bryan, situated on the site of the school at which he taught when he first came to Texas.

Credit goes to former Justice Browning for raising this ghost from the land of the forgotten.

All he wanted, Johnson wrote, was to "untie our hands and give us a white man's chance."

### ABOUT THIS COLUMN

The Watchdog Desk at *The Dallas Morning News* works for you to shine light on questionable practices in business and government. We welcome your story ideas and tips.

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Write: Dave Lieber, P.O. Box 655237, Dallas, TX 75265

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# City starts negotiating on development pacts

BY KRISTEN TRIBE  
ktribe@wcmessenger.com

After more than an hour-and-a-half in closed session, Decatur City Council Monday night directed City Manager Brett Shannon and attorney Patricia Adams to "proceed with negotiations," but didn't say with whom or what was being

negotiated. Shannon confirmed Tuesday they are negotiating with property owners Chris Fernihough and Karl Klement, who at the Jan. 25 council meeting requested their 2017 development agreements with the city be dissolved. Fernihough and several other property owners entered into development

agreements with the city, which allowed the owners to continue the current use on those properties but prohibited new development. In return, the city agreed not to annex the properties for at least five years. Since those agreements were issued, involuntary annexation was eliminated in the state. The two properties at the cen-

ter of the negotiations are Fernihough's Wise Honda Outdoor Power, 2601 U.S. 81/287 and Klement's 7.789-acre tract at 3051 and 3271 South U.S. 81/287. The agreements expire in July 2022. "One of the options is to amend the agreement with whatever is mutually acceptable," Shan-

non said. "But at this point, we don't know what will potentially happen. The council has several options. "Ultimately, it's their decision." Shannon said the bulk of the negotiations would be between Adams and the attorney representing Fernihough and Klement. When council member

Melinda Reeves moved to proceed with negotiations she said, "... let them know our intent is not to make anyone feel pressured." Fernihough and Klement were at the meeting. Shannon said he hopes to complete negotiations and present the resolution to the council at the Feb. 22 meeting.

## WISE COUNTY

# Deadline approaches for May 1 elections

With the deadline to file for the May 1 election rapidly approaching, some races are heating up while one has yet to get off the starting blocks. Three days before Friday's deadline, no candidates have filed to run for the Newark City Council. There are several openings on the ballot, with Mayor Mark Wondolowski's term set to expire along with Places 5 and 6. There's a special election

for the currently vacant Place 1 seat. This week Place 4 incumbent Will Carpene joined the fold for the Decatur City Council. Place 2 incumbent Jake Hayes and fellow council member Place 6's Melinda Reeves previously had filed to retain their seats. The City of Runaway Bay has three places on the ballot. Incumbents Jerry St. John, Deborah Lewis and Carolyn Moody

have each filed. On Monday night, the Runaway Bay council approved an ordinance that would assign place numbers to the candidates. Previously, candidates ran under the designation of "at large." The council members drew the numbers. Lewis is Place 1, Moody is Place 3 and St. John is Place 5. At Alvord ISD, the seats of Place 1's Jim Looney, Place 2's Jim Bloomer and Place 7's

Lance Thweatt will be on the ballot. Place 7 is an unexpired term with two years left on the term. Looney and Thweatt have filed. The Alvord mayor position and places 1 and 2 on the city council will be up for election. Mayor Jim Enochs and Place 2 incumbent Dewayne Sherwood filed, joining challenger Dakota Faulkner who previously filed for Place 1. Two people have filed

for two at-large seats on the Chico City Council: Joe Evans and Ronny McGuire. The seats are currently held by Jimmy Counts and Bart Weatherly. Chico Mayor Colleen Self has filed for re-election. The City of Boyd will have five of the six council spots on the ballot in May, including mayor. Mayor Rodney Holmes has filed, along with incumbents Rebel Adams in Place 2 and Mark Culpepper in

Place 4. Jeff Leavell, who was appointed for Place 3, filed for the one year of the unexpired term. Jeff Clark filed for the Place 5 seat, which is currently open. Northwest ISD incumbents DeAnne Hatfield and Mark Schluter have filed to retain their Place 1 and Place 2 seats on the school board. Boyd ISD's Bill Childress, Places 4 and Trae Luttrell, Place 5 have filed.

# COVID: WHS receiving 500 vaccines

Continued from page 1  
platform will eliminate wait times for making appointments with the hospital's scheduling team. Individuals on the hospital's list do not have to sign up again. Eligible individuals not on the list are encouraged to sign up at wisehealthsystem.com/covid-19. In their social media post Friday, WHS officials said there are more than 6,000 individuals on its list. The hospital had been left off the distribution list of first vaccine doses for the past three weeks as the state moved to sending most of its allocations to regional hubs. The hospital and local and state officials have communicated the need for additional vaccines in Wise County. WHS has applied to become a regional hub. "We still have not heard back from the state regarding our application to become a rural vaccine hub," Spann said Friday. "But we are very appreciative of our local and state leaders that have been supportive in communicating the need for more vaccines to be allocated to Wise County." Eligible Wise County residents can register for

vaccinations at any of the hubs in the state, including in Denton and Tarrant counties. "We can only schedule appointments based on the vaccine allocation received. This is our first allocation in three weeks and not everyone on our list will receive an email to schedule," Spann said. "We do encourage our community to sign up for other regional vaccine hubs, including Denton and Tarrant counties, where they are receiving much larger allocations of vaccines, to increase their opportunity of receiving the vaccine more quickly. However, we are hopeful that we will continue to receive vaccines more regularly going forward." Hospitalizations in Trauma Service Area E continue to drop, nearing the 15 percent threshold, according to the Department of State Health Services. On Friday and Saturday, hospitalizations were at 15.83 and 15.7 percent, respectively. On Sunday, they had increased slightly to 16.88 percent. There are 2,497 COVID-19 patients being treated at hospitals in the region, 520 less than late last week. There were 116 ICU

beds available and 2,010 ventilators. Total hospitalizations in the region were 11,663, a decrease of almost 2,200, with 1,826 beds available. According to DSHS, Wise County had 279 active COVID-19 cases Monday, and there have been 101 deaths due to COVID-19 since March. Data sent to local officials from the regional DSHS office indicates there are 139 active cases in the county.

The number of Wise County cases per ZIP code, according to numbers presented by the regional DSHS office, include: 1,978 in 76234 (Decatur/Slidell); 1,198 in 76426 (Bridgeport/Runaway Bay); 680 in 76078 (Rhome/New Fairview); 609 in 76071 (Newark); 580 in 76073 (Paradise/Cottontdale); 540 in 76023 (Boyd/Briar); 395 in 76225 (Alvord); 297 in 76431 (Chico/Crafton); and 203 in 76082 (Springtown).

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**If you are or were a royalty owner and received payments from Devon Energy Production Company from one or more wells producing natural gas processed at the Bridgeport Gas Processing Plant, you may be entitled to benefits afforded by a class action settlement.**

A proposed class action settlement ("Settlement") has been reached in a lawsuit against Devon Energy Production Company ("DEPCO") concerning the calculation of royalty payments for wells producing natural gas processed at the Bridgeport Gas Processing Plant. DEPCO has denied, and continues to deny, any wrongdoing or liability whatsoever. The Settlement resolves the lawsuit and provides benefits to Class Members. This notice provides basic information. You should review the detailed notice ("Long-Form Notice") found on the website, [www.SeeligsonSettlement.com](http://www.SeeligsonSettlement.com), for more information.

**Am I Involved?**

You may be a member of the Court-certified Class if you are or were a royalty owner in Texas wells producing natural gas that was processed through the Bridgeport Gas Processing Plant by Devon Gas Services, LP, an affiliate of DEPCO, between January 1, 2008 and February 28, 2014 and received royalties from DEPCO on such gas. For more information regarding who is a member of the Class, please review the Long-Form Notice.

**What does the Settlement provide?**

Pursuant to the Settlement, DEPCO will pay \$28 million in cash into a settlement fund to resolve the lawsuit. This amount, plus accrued interest, after deductions based on opt out requests received and the deduction of Court-awarded attorneys' fees and expenses, notice and administration costs, and taxes, will be allocated among Class Members, in exchange for the settlement of the lawsuit and the release of all claims asserted in the lawsuit and related claims.

**Do I Need An Attorney?**

The Court has appointed lawyers to represent the Class in this lawsuit. Class Members will not be obligated to pay any of the attorneys' fees, expenses or costs for these lawyers. You may hire your own attorney, at your own expense.

**What are my options?**

If you are a Class Member and want to receive benefits that may come if the Settlement is approved, you do not need to take any further action (however, if you owned royalty interest in wells producing natural gas processed at the Bridgeport Gas Processing Plant, but transferred your interest, see Section 9 in the Long-Form Notice). If you are eligible for a payment from the Settlement, data from DEPCO will be used to calculate your payment. By remaining in the Class, however, you are giving up the right to sue Defendant in a different lawsuit about the same legal claims in this lawsuit. If you do not want to be legally bound by any releases, judgments, or orders in the lawsuit and keep any right you may have to sue DEPCO for the claims involved in the lawsuit, you must opt out of the Class by **March 29, 2021**. If you opt out, you will not be eligible to receive any benefits of the Settlement. If you are a Class Member and want to object to any aspect of the Settlement, you must do so by **May 11, 2021**. The Long-Form Notice provides instructions on how to opt out from the Class, or object to the Settlement, and you must comply with all of the instructions in the Long-Form Notice.

**When is the Fairness Hearing?**

A hearing will be held on **June 15, 2021 at 10:00 a.m.**, before the Honorable Ed Kinkeade, at the United States District Court for the Northern District of Texas, 1100 Commerce Street, Dallas, Texas 75242-1003, to determine if the Settlement, plan of allocation, and request for attorneys' fees and expenses should be approved. Supporting papers will be posted on the website once filed. For more information, call 1-833-537-1190, email [info@seeligsonsettlement.com](mailto:info@seeligsonsettlement.com), or visit [www.SeeligsonSettlement.com](http://www.SeeligsonSettlement.com).

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Feeder Steers & Heifers Steady 3.00 Lower  
Stocker Steers and Heifers Steady to 5.00 Higher

Steers	Weight	Heifers
\$1.70 - \$2.05	300-400	\$1.45 - \$1.70
\$1.50 - \$1.85	400-500	\$1.30 - \$1.60
\$1.35 - \$1.7550	500-600	\$1.18 - \$1.41
\$1.327 - \$1.61	600-700	\$1.15 - \$1.30
\$1.22 - \$1.36	700-800	\$1.05 - \$1.26

Bred Cows	Pairs
\$600.00 to \$1,200.00	\$1,200.00 to \$1,500.00
Packer Cows	Packer Bulls
30.00-66.50	60.00-93.50

**Highlights**

7 Strs 651 x 1.4350 Marlow	8 Hfrs 623 x 1.24 Walters
9 Strs 562 x 1.65 Comanche	23 Hfrs 512 x 1.34 Marlow
11 Strs 445 x 1.80 Duncan	12 Hfrs 427x 1.59 Randlett
9 Strs 744 x 1.32 Bowie TX	14 Hfrs 358 x 1.64 Randlett
10 bulls 535 x 1.51 Healdton	

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# EXHIBIT C



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**DECLARATION OF JOSEPH H. MELTZER IN SUPPORT OF CLASS COUNSEL’S  
MOTION FOR AN AWARD OF ATTORNEYS’ FEES AND LITIGATION EXPENSES  
FILED ON BEHALF OF KESSLER TOPAZ MELTZER & CHECK, LLP**

I, Joseph H. Meltzer, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a partner of the law firm of Kessler Topaz Meltzer & Check, LLP (“KTMC”). KTMC serves as one of the Class Counsel firms in the above-captioned class action (“Action”). I submit this Declaration in support of Class Counsel’s motion for an award of attorneys’ fees in connection with services rendered by Class Counsel in the Action, as well as for the reimbursement or payment of Litigation Expenses incurred in connection with the Action. Unless otherwise stated herein, I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. As one of the Class Counsel firms, KTMC was involved in all aspects of the litigation of the Action and its resolution, as set forth in the accompanying Declaration of Joseph H. Meltzer in Support of: (A) Plaintiffs’ Motion for Final Approval of Class Action Settlement

and Plan of Allocation; and (B) Class Counsel's Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs.

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by the attorneys and professional support staff employees of my firm who devoted at least ten (10) hours to the Action, from the time when potential claims were being investigated through April 22, 2021, and the lodestar calculation for those individuals based on my firm's current hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the hourly rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from time records regularly prepared and maintained by my firm, which are available at the request of the Court. No time expended on the application for attorneys' fees and expenses has been included.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit 1 are their standard rates. My firm's hourly rates are largely based upon a combination of the title, cost to the firm, and the specific years of experience for each attorney and professional support staff employee, as well as market rates for practitioners in the field. These hourly rates are the same as, or comparable to, rates submitted by KTMC and accepted by courts in other complex class actions.

5. The total number of hours expended by KTMC in the Action, from inception through April 22, 2021, as reflected in Exhibit 1, is 8,539.60. The total lodestar for KTMC, as reflected in Exhibit 1, is \$4,516,293.25, consisting of \$4,382,471.50 for attorneys' time and \$129,196.75 for professional support staff time.

6. Expense items are being submitted separately and are not duplicated in my firm's hourly rates. As set forth in Exhibit 2 hereto, KTMC is seeking reimbursement or payment for a

total of \$610,829.12 in expenses incurred in connection with the prosecution and resolution of the Action.

7. The expenses incurred by KTMC in the Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred.

8. With respect to the standing of my firm, attached hereto as Exhibit 3 is a biography of my firm and attorneys in my firm who were involved in the Action.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

Executed on April 27, 2021.

  
\_\_\_\_\_  
JOSEPH H. MELTZER

# EXHIBIT 1

**Seeligson, et al. v. Devon Energy Production Co., L.P., Case No. 3:16-cv-00082-K****Kessler Topaz Meltzer & Check, LLP - Lodestar****Reporting Period: Inception - April 23, 2021**

<b>Attorneys</b>	<b>Position</b>	<b>Rate</b>	<b>Hours</b>	<b>Current Lodestar</b>
Andrew Dodemaide	A	\$400.00	37.50	\$15,000.00
Tyler Graden	A	\$550.00	398.80	\$219,340.00
Brandon Herling	A	\$390.00	20.60	\$8,034.00
Natalie Lesser	A	\$535.00	1,048.20	\$560,787.00
Lauren McGinley	A	\$440.00	101.20	\$44,528.00
Ardit Prifti	A	\$400.00	19.00	\$7,600.00
Jason Ware	A	\$525.00	50.00	\$26,250.00
Zachary Wood	A	\$390.00	12.00	\$4,680.00
Jennifer Enck	C	\$690.00	66.10	\$45,609.00
Naumon Amjed	P	\$850.00	98.10	\$83,385.00
Ryan Degnan	P	\$780.00	347.00	\$270,660.00
Geoffrey Jarvis	P	\$850.00	265.10	\$225,335.00
Joseph Meltzer	P	\$920.00	161.10	\$148,212.00
Peter Muhic	P	\$850.00	35.70	\$30,345.00
Melissa Troutner	P	\$820.00	1,787.40	\$1,465,668.00
Adam Block	PA	\$350.00	280.00	\$98,000.00
Rochelle Brown	PA	\$325.00	250.50	\$81,412.50
Dominique Grenier	PA	\$350.00	238.25	\$83,387.50
Brenda Hall	PA	\$325.00	204.25	\$66,381.25
Candice Hegedus	PA	\$350.00	387.75	\$135,712.50
Edward Levine	PA	\$300.00	67.25	\$20,175.00
Lauren Lewis	PA	\$325.00	1,126.00	\$365,950.00
John Quinn	PA	\$325.00	473.75	\$153,968.75
Stacey Berger	SA	\$385.00	182.50	\$70,262.50
Elaine Oldenettel	SA	\$385.00	132.40	\$50,974.00
Zackary Wood	A	\$390.00	12.00	\$4,680.00
Anne Zaneski	SA	\$385.00	249.70	\$96,134.50
<b>Attorney Totals:</b>			<b>8,052.15</b>	<b>\$4,382,471.50</b>
<b>Paralegals</b>				
Courtney Hemsley	PL	\$260.00	16.00	\$4,160.00
Deborah Moffo	PL	\$250.00	24.60	\$6,150.00
Mary Swift	PL	\$305.00	36.35	\$11,086.75
Julie Wotring	PL	\$275.00	392.00	\$107,800.00
<b>Paralegal Totals:</b>			<b>468.95</b>	<b>\$129,196.75</b>
<b>Professional Staff</b>				
Tiffany Ehm	PS	\$250.00	18.50	\$4,625.00
<b>Professional Staff Totals:</b>			<b>18.50</b>	<b>\$4,625.00</b>
<b>TOTALS:</b>			<b>8,539.60</b>	<b>\$4,516,293.25</b>

A = Associate  
C = Counsel  
P = Partner  
PA = Project Attorney  
SA = Staff Attorney

# EXHIBIT 2

**Seeligson, et al. v. Devon Energy Production Co., L.P. , Case No. 3:16-cv-00082-K****Kessler Topaz Meltzer & Check, LLP - Expenses****Reporting Period: Inception - April 23, 2021**

<b>EXPENSE DESCRIPTION</b>	<b>TOTAL</b>
Court Reporting	\$30,736.07
Document Delivery (Federal Express, Postage)	\$1,035.90
Document Review/Hosting Vendor	\$138,616.41
Expert	\$382,029.46
Filing Fees	\$972.00
Internal Document Reproduction (19,618 @ 10¢)	\$1,961.80
Mediation	\$17,370.60
Process Server	\$1,335.00
Research (Case Specific)	\$7,332.31
Travel, Meals & Lodging	\$25,841.30
Vendor Copy Bills	\$3,598.27
<b>KTMC TOTAL EXPENSES:</b>	<b>\$610,829.12</b>

# EXHIBIT 3





280 King of Prussia Road, Radnor, Pennsylvania 19087 • 610-667-7706 • Fax: 610-667-7056 • info@ktmc.com  
One Sansome Street, Suite 1850, San Francisco, CA 94104 • 415-400-3000 • Fax: 415-400-3001 • info@ktmc.com

[www.ktmc.com](http://www.ktmc.com)

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## FIRM PROFILE

Since 1987, Kessler Topaz Meltzer & Check, LLP has specialized in the prosecution of securities class actions and has grown into one of the largest and most successful shareholder litigation firms in the field. With offices in Radnor, Pennsylvania and San Francisco, California, the Firm is comprised of 94 attorneys as well as an experienced support staff consisting of over 80 paralegals, in-house investigators, legal clerks and other personnel. With a large and sophisticated client base (numbering over 180 institutional investors from around the world -- including public and Taft-Hartley pension funds, mutual fund managers, investment advisors, insurance companies, hedge funds and other large investors), Kessler Topaz has developed an international reputation for excellence and has extensive experience prosecuting securities fraud actions. For the past several years, the National Law Journal has recognized Kessler Topaz as one of the top securities class action law firms in the country. In addition, the Legal Intelligencer recently awarded Kessler Topaz with its Class Action Litigation Firm of The Year award. Lastly, Kessler Topaz and several of its attorneys are regularly recognized by Legal500 and Benchmark: Plaintiffs as leaders in our field.

Kessler Topaz is serving or has served as lead or co-lead counsel in many of the largest and most significant securities class actions pending in the United States, including actions against: Bank of America, Duke Energy, Lehman Brothers, Hewlett Packard, Johnson & Johnson, JPMorgan Chase, Morgan Stanley and MGM Mirage, among others. As demonstrated by the magnitude of these high-profile cases, we take seriously our role in advising clients to seek lead plaintiff appointment in cases, paying special attention to the factual elements of the fraud, the size of losses and damages, and whether there are viable sources of recovery.

Kessler Topaz has recovered billions of dollars in the course of representing defrauded shareholders from around the world and takes pride in the reputation we have earned for our dedication to our clients. Kessler Topaz devotes significant time to developing relationships with its clients in a manner that enables the Firm to understand the types of cases they will be interested in pursuing and their expectations. Further, the Firm is committed to pursuing meaningful corporate governance reforms in cases where we suspect that systemic problems within a company could lead to recurring litigation and where such changes also have the possibility to increase the value of the underlying company. The Firm is poised to continue protecting rights worldwide.

## NOTEWORTHY ACHIEVEMENTS

*During the Firm's successful history, Kessler Topaz has recovered billions of dollars for defrauded stockholders and consumers. The following are among the Firm's notable achievements:*

### Securities Fraud Litigation

#### *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation, Master File No. 09 MDL 2058:*

Kessler Topaz, as Co-Lead Counsel, brought an action on behalf of lead plaintiffs that asserted claims for violations of the federal securities laws against Bank of America Corp. ("BoA") and certain of BoA's officers and board members relating to BoA's merger with Merrill Lynch & Co. ("Merrill") and its failure to inform its shareholders of billions of dollars of losses which Merrill had suffered before the pivotal shareholder vote, as well as an undisclosed agreement allowing Merrill to pay up to \$5.8 billion in bonuses before the acquisition closed, despite these losses. On September 28, 2012, the Parties announced a \$2.425 billion case settlement with BoA to settle all claims asserted against all defendants in the action which has since received final approval from the Court. BoA also agreed to implement significant corporate governance improvements. The settlement, reached after almost four years of litigation with a trial set to begin on October 22, 2012, amounts to 1) the sixth largest securities class action lawsuit settlement ever; 2) the fourth largest securities class action settlement ever funded by a single corporate defendant; 3) the single largest settlement of a securities class action in which there was neither a financial restatement involved nor a criminal conviction related to the alleged misconduct; 4) the single largest securities class action settlement ever resolving a Section 14(a) claim (the federal securities provision designed to protect investors against misstatements in connection with a proxy solicitation); and 5) by far the largest securities class action settlement to come out of the subprime meltdown and credit crisis to date.

#### *In re Tyco International, Ltd. Sec. Litig., No. 02-1335-B (D.N.H. 2002):*

Kessler Topaz, which served as Co-Lead Counsel in this highly publicized securities fraud class action on behalf of a group of institutional investors, achieved a record \$3.2 billion settlement with Tyco International, Ltd. ("Tyco") and their auditor PricewaterhouseCoopers ("PwC"). The \$2.975 billion settlement with Tyco represents the single-largest securities class action recovery from a single corporate defendant in history. In addition, the \$225 million settlement with PwC represents the largest payment PwC has ever paid to resolve a securities class action and is the second-largest auditor settlement in securities class action history.

The action asserted federal securities claims on behalf of all purchasers of Tyco securities between December 13, 1999 and June 7, 2002 ("Class Period") against Tyco, certain former officers and directors of Tyco and PwC. Tyco is alleged to have overstated its income during the Class Period by \$5.8 billion through a multitude of accounting manipulations and shenanigans. The case also involved allegations of looting and self-dealing by the officers and directors of the Company. In that regard, Defendants L. Dennis Kozlowski, the former CEO and Mark H. Swartz, the former CFO have been sentenced to up to 25 years in prison after being convicted of grand larceny, falsification of business records and conspiracy for their roles in the alleged scheme to defraud investors.

As presiding Judge Paul Barbadoro aptly stated in his Order approving the final settlement, "[i]t is difficult to overstate the complexity of [the litigation]." Judge Barbadoro noted the extraordinary effort required to pursue the litigation towards its successful conclusion, which included the review of more than 82.5 million pages of documents, more than 220 depositions and over 700 hundred discovery requests and responses. In addition to the complexity of the litigation, Judge Barbadoro also highlighted the great risk undertaken by

Co-Lead Counsel in pursuit of the litigation, which he indicated was greater than in other multi-billion dollar securities cases and “put [Plaintiffs] at the cutting edge of a rapidly changing area of law.”

In sum, the Tyco settlement is of historic proportions for the investors who suffered significant financial losses and it has sent a strong message to those who would try to engage in this type of misconduct in the future.

***In re Tenet Healthcare Corp. Sec. Litig., No. CV-02-8462-RSWL (Rx) (C.D. Cal. 2002):***

Kessler Topaz served as Co-Lead Counsel in this action. A partial settlement, approved on May 26, 2006, was comprised of three distinct elements: (i) a substantial monetary commitment of \$215 million by the company; (ii) personal contributions totaling \$1.5 million by two of the individual defendants; and (iii) the enactment and/or continuation of numerous changes to the company’s corporate governance practices, which have led various institutional rating entities to rank Tenet among the best in the U.S. in regards to corporate governance. The significance of the partial settlement was heightened by Tenet’s precarious financial condition. Faced with many financial pressures — including several pending civil actions and federal investigations, with total contingent liabilities in the hundreds of millions of dollars — there was real concern that Tenet would be unable to fund a settlement or satisfy a judgment of any greater amount in the near future. By reaching the partial settlement, we were able to avoid the risks associated with a long and costly litigation battle and provide a significant and immediate benefit to the class. Notably, this resolution represented a unique result in securities class action litigation — personal financial contributions from individual defendants. After taking the case through the summary judgment stage, we were able to secure an additional \$65 million recovery from KPMG – Tenet’s outside auditor during the relevant period – for the class, bringing the total recovery to \$281.5 million.

***In re Wachovia Preferred Securities and Bond/Notes Litigation, Master File No. 09 Civ. 6351 (RJS) (S.D.N.Y.):***

Kessler Topaz, as court-appointed Co-Lead Counsel, asserted class action claims for violations of the Securities Act of 1933 on behalf of all persons who purchased Wachovia Corporation (“Wachovia”) preferred securities issued in thirty separate offerings (the “Offerings”) between July 31, 2006 and May 29, 2008 (the “Offering Period”). Defendants in the action included Wachovia, various Wachovia related trusts, Wells Fargo as successor-in-interest to Wachovia, certain of Wachovia’s officer and board members, numerous underwriters that underwrote the Offerings, and KPMG LLP (“KPMG”), Wachovia’s former outside auditor. Plaintiffs alleged that the registration statements and prospectuses and prospectus supplements used to market the Offerings to Plaintiffs and other members of the class during the Offerings Period contained materially false and misleading statements and omitted material information. Specifically, the Complaint alleged that in connection with the Offerings, Wachovia: (i) failed to reveal the full extent to which its mortgage portfolio was increasingly impaired due to dangerously lax underwriting practices; (ii) materially misstated the true value of its mortgage-related assets; (iii) failed to disclose that its loan loss reserves were grossly inadequate; and (iv) failed to record write-downs and impairments to those assets as required by Generally Accepted Accounting Principles (“GAAP”). Even as Wachovia faced insolvency, the Offering Materials assured investors that Wachovia’s capital and liquidity positions were “strong,” and that it was so “well capitalized” that it was actually a “provider of liquidity” to the market. On August 5, 2011, the Parties announced a \$590 million cash settlement with Wells Fargo (as successor-in-interest to Wachovia) and a \$37 million cash settlement with KPMG, to settle all claims asserted against all defendants in the action. This settlement was approved by the Hon. Judge Richard J. Sullivan by order issued on January 3, 2012.

***In re Initial Public Offering Sec. Litig., Master File No. 21 MC 92(SAS):***

This action settled for \$586 million on January 1, 2010, after years of litigation overseen by U.S. District Judge Shira Scheindlin. Kessler Topaz served on the plaintiffs’ executive committee for the case, which was based upon the artificial inflation of stock prices during the dot-com boom of the late 1990s that led to

the collapse of the technology stock market in 2000 that was related to allegations of laddering and excess commissions being paid for IPO allocations.

***In re Longtop Financial Technologies Ltd. Securities Litigation, No. 11-cv-3658 (S.D.N.Y.):***

Kessler Topaz, as Lead Counsel, brought an action on behalf of lead plaintiffs that asserted claims for violations of the federal securities laws against Longtop Financial Technologies Ltd. (“Longtop”), its Chief Executive Officer, Weizhou Lian, and its Chief Financial Officer, Derek Palaschuk. The claims against Longtop and these two individuals were based on a massive fraud that occurred at the company. As the CEO later confessed, the company had been a fraud since 2004. Specifically, Weizhou Lian confessed that the company’s cash balances and revenues were overstated by hundreds of millions of dollars and it had millions of dollars in unrecorded bank loans. The CEO further admitted that, in 2011 alone, Longtop’s revenues were overstated by about 40 percent. On November 14, 2013, after Weizhou Lian and Longtop failed to appear and defend the action, Judge Shira Scheindlin entered default judgment against these two defendants in the amount of \$882.3 million plus 9 percent interest running from February 21, 2008 to the date of payment. The case then proceeded to trial against Longtop’s CFO who claimed he did not know about the fraud - and was not reckless in not knowing - when he made false statements to investors about Longtop’s financial results. On November 21, 2014, the jury returned a verdict on liability in favor of plaintiffs. Specifically, the jury found that the CFO was liable to the plaintiffs and the class for each of the eight challenged misstatements. Then, on November 24, 2014, the jury returned its damages verdict, ascribing a certain amount of inflation to each day of the class period and apportioning liability for those damages amongst the three named defendants. The Longtop trial was only the 14th securities class action to be tried to a verdict since the passage of the Private Securities Litigation Reform Act in 1995 and represents a historic victory for investors.

***Operative Plasterers and Cement Masons International Association Local 262 Annuity Fund v. Lehman Brothers Holdings, Inc., No. 1:08-cv-05523-LAK (S.D.N.Y.):***

Kessler Topaz, on behalf of lead plaintiffs, asserted claims against certain individual defendants and underwriters of Lehman securities arising from misstatements and omissions regarding Lehman's financial condition, and its exposure to the residential and commercial real estate markets in the period leading to Lehman’s unprecedented bankruptcy filing on September 14, 2008. In July 2011, the Court sustained the majority of the amended Complaint finding that Lehman’s use of Repo 105, while technically complying with GAAP, still rendered numerous statements relating to Lehman’s purported Net Leverage Ratio materially false and misleading. The Court also found that Defendants’ statements related to Lehman’s risk management policies were sufficient to state a claim. With respect to loss causation, the Court also failed to accept Defendants’ contention that the financial condition of the economy led to the losses suffered by the Class. As the case was being prepared for trial, a \$517 million settlement was reached on behalf of shareholders --- \$426 million of which came from various underwriters of the Offerings, representing a significant recovery for investors in this now bankrupt entity. In addition, \$90 million came from Lehman’s former directors and officers, which is significant considering the diminishing assets available to pay any future judgment. Following these settlements, the litigation continued against Lehman’s auditor, Ernst & Young LLP. A settlement for \$99 million was subsequently reached with Ernst & Young LLP and was approved by the Court.

***Minneapolis Firefighters' Relief Association v. Medtronic, Inc. et al. Case No. 0:08-cv-06324-PAM-AJB (D. Minn.):***

Kessler Topaz brought an action on behalf of lead plaintiffs that alleged that the company failed to disclose its reliance on illegal “off-label” marketing techniques to drive the sales of its INFUSE Bone Graft (“INFUSE”) medical device. While physicians are allowed to prescribe a drug or medical device for any use they see fit, federal law prohibits medical device manufacturers from marketing devices for any uses not specifically approved by the United States Food and Drug Administration. The company’s off-label marketing practices have resulted in the company becoming the target of a probe by the federal government

which was revealed on November 18, 2008, when the company's CEO reported that Medtronic received a subpoena from the United States Department of Justice which is "looking into off-label use of INFUSE." After hearing oral argument on Defendants' Motions to Dismiss, on February 3, 2010, the Court issued an order granting in part and denying in part Defendants' motions, allowing a large portion of the action to move forward. The Court held that Plaintiff successfully stated a claim against each Defendant for a majority of the misstatements alleged in the Complaint and that each of the Defendants knew or recklessly disregarded the falsity of these statements and that Defendants' fraud caused the losses experienced by members of the Class when the market learned the truth behind Defendants' INFUSE marketing efforts. While the case was in discovery, on April 2, 2012, Medtronic agreed to pay shareholders an \$85 million settlement. The settlement was approved by the Court by order issued on November 8, 2012.

***In re Brocade Sec. Litig., Case No. 3:05-CV-02042 (N.D. Cal. 2005) (CRB):***

The complaint in this action alleges that Defendants engaged in repeated violations of federal securities laws by backdating options grants to top executives and falsified the date of stock option grants and other information regarding options grants to numerous employees from 2000 through 2004, which ultimately caused Brocade to restate all of its financial statements from 2000 through 2005. In addition, concurrent SEC civil and Department of Justice criminal actions against certain individual defendants were commenced. In August, 2007 the Court denied Defendant's motions to dismiss and in October, 2007 certified a class of Brocade investors who were damaged by the alleged fraud. Discovery is currently proceeding and the case is being prepared for trial. Furthermore, while litigating the securities class action Kessler Topaz and its co-counsel objected to a proposed settlement in the Brocade derivative action. On March 21, 2007, the parties in *In re Brocade Communications Systems, Inc. Derivative Litigation*, No. C05-02233 (N.D. Cal. 2005) (CRB) gave notice that they had obtained preliminary approval of their settlement. According to the notice, which was buried on the back pages of the Wall Street Journal, Brocade shareholders were given less than three weeks to evaluate the settlement and file any objection with the Court. Kessler Topaz client Puerto Rico Government Employees' Retirement System ("PRGERS") had a large investment in Brocade and, because the settlement was woefully inadequate, filed an objection. PRGERS, joined by fellow institutional investor Arkansas Public Employees Retirement System, challenged the settlement on two fundamental grounds. First, PRGERS criticized the derivative plaintiffs for failing to conduct any discovery before settling their claims. PRGERS also argued that derivative plaintiff's abject failure to investigate its own claims before providing the defendants with broad releases from liability made it impossible to weigh the merits of the settlement. The Court agreed, and strongly admonished derivative plaintiffs for their failure to perform this most basic act of service to their fellow Brocade shareholders. The settlement was rejected and later withdrawn. Second, and more significantly, PRGERS claimed that the presence of the well-respected law firm Wilson, Sonsini Goodrich and Rosati, in this case, created an incurable conflict of interest that corrupted the entire settlement process. The conflict stemmed from WSGR's dual role as counsel to Brocade and the Individual Settling Defendants, including WSGR Chairman and former Brocade Board Member Larry Sonsini. On this point, the Court also agreed and advised WSGR to remove itself from the case entirely. On May 25, 2007, WSGR complied and withdrew as counsel to Brocade. The case settled for \$160 million and was approved by the Court.

***In re Satyam Computer Services, Ltd. Sec. Litig., No. 09 MD 02027 (BSJ) (S.D.N.Y.):***

Kessler Topaz served as Co-Lead Counsel in this securities fraud class action in the Southern District of New York. The action asserts claims by lead plaintiffs for violations of the federal securities laws against Satyam Computer Services Limited ("Satyam" or the "Company") and certain of Satyam's former officers and directors and its former auditor PricewaterhouseCoopers International Ltd. ("PwC") relating to the Company's January 7, 2009, disclosure admitting that B. Ramalinga Raju ("B. Raju"), the Company's former chairman, falsified Satyam's financial reports by, among other things, inflating its reported cash balances by more than \$1 billion. The news caused the price of Satyam's common stock (traded on the National Stock Exchange of India and the Bombay Stock Exchange) and American Depository Shares ("ADSs") (traded on the New York Stock Exchange ("NYSE")) to collapse. From a closing price of \$3.67



per share on January 6, 2009, Satyam's common stock closed at \$0.82 per share on January 7, 2009. With respect to the ADSs, the news of B. Raju's letter was revealed overnight in the United States and, as a result, trading in Satyam ADSs was halted on the NYSE before the markets opened on January 7, 2009. When trading in Satyam ADSs resumed on January 12, 2009, Satyam ADSs opened at \$1.14 per ADS, down steeply from a closing price of \$9.35 on January 6, 2009. Lead Plaintiffs filed a consolidated complaint on July 17, 2009, on behalf of all persons or entities, who (a) purchased or otherwise acquired Satyam's ADSs in the United States; and (b) residents of the United States who purchased or otherwise acquired Satyam shares on the National Stock Exchange of India or the Bombay Stock Exchange between January 6, 2004 and January 6, 2009. Co-Lead Counsel secured a settlement for \$125 million from Satyam on February 16, 2011. Additionally, Co-Lead Counsel was able to secure a \$25.5 million settlement from PwC on April 29, 2011, who was alleged to have signed off on the misleading audit reports.

***In re BankAtlantic Bancorp, Inc. Sec. Litig., Case No. 07-CV-61542 (S.D. Fla. 2007):***

On November 18, 2010, a panel of nine Miami, Florida jurors returned the first securities fraud verdict to arise out of the financial crisis against BankAtlantic Bancorp. Inc., its chief executive officer and chief financial officer. This case was only the tenth securities class action to be tried to a verdict following the passage of the Private Securities Litigation Reform Act of 1995, which governs such suits. Following extensive post-trial motion practice, the District Court upheld all of the Jury's findings of fraud but vacated the damages award on a narrow legal issue and granted Defendant's motion for a judgment as a matter of law. Plaintiffs appealed to the U.S. Court of Appeals for the Eleventh Circuit. On July 23, 2012, a three-judge panel for the Appeals Court found the District Court erred in granting the Defendant's motion for a judgment as a matter of law based in part on the Jury's findings (perceived inconsistency of two of the Jury's answers to the special interrogatories) instead of focusing solely on the sufficiency of the evidence. However, upon its review of the record, the Appeals Court affirmed the District Court's decision as it determined the Plaintiffs did not introduce evidence sufficient to support a finding in its favor on the element of loss causation. The Appeals Court's decision in this case does not diminish the five years of hard work which Kessler Topaz expended to bring the matter to trial and secure an initial jury verdict in the Plaintiffs' favor. This case is an excellent example of the Firm's dedication to our clients and the lengths it will go to try to achieve the best possible results for institutional investors in shareholder litigation.

***In re AremisSoft Corp. Sec. Litig., C.A. No. 01-CV-2486 (D.N.J. 2002):***

Kessler Topaz is particularly proud of the results achieved in this case before the Honorable Joel A. Pisano. This case was exceedingly complicated, as it involved the embezzlement of hundreds of millions of dollars by former officers of the Company, one of whom remains a fugitive. In settling the action, Kessler Topaz, as sole Lead Counsel, assisted in reorganizing AremisSoft as a new company to allow for it to continue operations, while successfully separating out the securities fraud claims and the bankrupt Company's claims into a litigation trust. The approved Settlement enabled the class to receive the majority of the equity in the new Company, as well as their pro rata share of any amounts recovered by the litigation trust. During this litigation, actions have been initiated in the Isle of Man, Cyprus, as well as in the United States as we continue our efforts to recover assets stolen by corporate insiders and related entities.

***In re CVS Corporation Sec. Litig., C.A. No. 01-11464 JLT (D.Mass. 2001):***

Kessler Topaz, serving as Co-Lead Counsel on behalf of a group of institutional investors, secured a cash recovery of \$110 million for the class, a figure which represents the third-largest payout for a securities action in Boston federal court. Kessler Topaz successfully litigated the case through summary judgment before ultimately achieving this outstanding result for the class following several mediation sessions, and just prior to the commencement of trial.

***In re Marvell Technology, Group, Ltd. Sec. Lit., Master File No. 06-06286 RWM:***

Kessler Topaz served as Co-Lead Counsel in this securities class action brought against Marvell Technology Group Ltd. (“Marvell”) and three of Marvell’s executive officers. This case centered around an alleged options backdating scheme carried out by Defendants from June 2000 through June 2006, which enabled Marvell’s executives and employees to receive options with favorable option exercise prices chosen with the benefit of hindsight, in direct violation of Marvell’s stock option plan, as well as to avoid recording hundreds of millions of dollars in compensation expenses on the Marvell’s books. In total, the restatement conceded that Marvell had understated the cumulative effect of its compensation expense by \$327.3 million, and overstated net income by \$309.4 million, for the period covered by the restatement. Following nearly three years of investigation and prosecution of the Class’ claims as well as a protracted and contentious mediation process, Co-Lead Counsel secured a settlement for \$72 million from defendants on June 9, 2009. This Settlement represents a substantial portion of the Class’ maximum provable damages, and is among the largest settlements, in total dollar amount, reached in an option backdating securities class action.

***In re Delphi Corp. Sec. Litig., Master File No. 1:05-MD-1725 (E.D. Mich. 2005):***

In early 2005, various securities class actions were filed against auto-parts manufacturer Delphi Corporation in the Southern District of New York. Kessler Topaz its client, Austria-based mutual fund manager Raiffeisen Kapitalanlage-Gesellschaft m.b.H. (“Raiffeisen”), were appointed as Co-Lead Counsel and Co-Lead Plaintiff, respectively. The Lead Plaintiffs alleged that (i) Delphi improperly treated financing transactions involving inventory as sales and disposition of inventory; (ii) improperly treated financing transactions involving “indirect materials” as sales of these materials; and (iii) improperly accounted for payments made to and credits received from General Motors as warranty settlements and obligations. As a result, Delphi’s reported revenue, net income and financial results were materially overstated, prompting Delphi to restate its earnings for the five previous years. Complex litigation involving difficult bankruptcy issues has potentially resulted in an excellent recovery for the class. In addition, Co-Lead Plaintiffs also reached a settlement of claims against Delphi’s outside auditor, Deloitte & Touche, LLP, for \$38.25 million on behalf of Delphi investors.

***In re Royal Dutch Shell European Shareholder Litigation, No. 106.010.887, Gerechtshof Te Amsterdam (Amsterdam Court of Appeal):***

Kessler Topaz was instrumental in achieving a landmark \$352 million settlement on behalf non-US investors with Royal Dutch Shell plc relating to Shell's 2004 restatement of oil reserves. This settlement of securities fraud claims on a class-wide basis under Dutch law was the first of its kind, and sought to resolve claims exclusively on behalf of European and other non-United States investors. Uncertainty over whether jurisdiction for non-United States investors existed in a 2004 class action filed in federal court in New Jersey prompted a significant number of prominent European institutional investors from nine countries, representing more than one billion shares of Shell, to actively pursue a potential resolution of their claims outside the United States. Among the European investors which actively sought and supported this settlement were Alecta pensionsförsäkring, ömsesidigt, PKA Pension Funds Administration Ltd., Swedbank Robur Fonder AB, AP7 and AFA Insurance, all of which were represented by Kessler Topaz.

***In re Computer Associates Sec. Litig., No. 02-CV-1226 (E.D.N.Y. 2002):***

Kessler Topaz served as Co-Lead Counsel on behalf of plaintiffs, alleging that Computer Associates and certain of its officers misrepresented the health of the company’s business, materially overstated the company’s revenues, and engaged in illegal insider selling. After nearly two years of litigation, Kessler Topaz helped obtain a settlement of \$150 million in cash and stock from the company.

***In re The Interpublic Group of Companies Sec. Litig., No. 02 Civ. 6527 (S.D.N.Y. 2002):***

Kessler Topaz served as sole Lead Counsel in this action on behalf of an institutional investor and received final approval of a settlement consisting of \$20 million in cash and 6,551,725 shares of IPG common stock. As of the final hearing in the case, the stock had an approximate value of \$87 million, resulting in a total

settlement value of approximately \$107 million. In granting its approval, the Court praised Kessler Topaz for acting responsibly and noted the Firm's professionalism, competence and contribution to achieving such a favorable result.

***In re Digital Lightwave, Inc. Sec. Litig., Consolidated Case No. 98-152-CIV-T-24E (M.D. Fla. 1999):***

The firm served as Co-Lead Counsel in one of the nation's most successful securities class actions in history measured by the percentage of damages recovered. After extensive litigation and negotiations, a settlement consisting primarily of stock was worth over \$170 million at the time when it was distributed to the Class. Kessler Topaz took on the primary role in negotiating the terms of the equity component, insisting that the class have the right to share in any upward appreciation in the value of the stock after the settlement was reached. This recovery represented an astounding approximately two hundred percent (200%) of class members' losses.

***In re Transkaryotic Therapies, Inc. Sec. Litig., Civil Action No.: 03-10165-RWZ (D. Mass. 2003):***

After five years of hard-fought, contentious litigation, Kessler Topaz as Lead Counsel on behalf of the Class, entered into one of largest settlements ever against a biotech company with regard to non-approval of one of its drugs by the U.S. Food and Drug Administration ("FDA"). Specifically, the Plaintiffs alleged that Transkaryotic Therapies, Inc. ("TKT") and its CEO, Richard Selden, engaged in a fraudulent scheme to artificially inflate the price of TKT common stock and to deceive Class Members by making misrepresentations and nondisclosures of material facts concerning TKT's prospects for FDA approval of Replagal, TKT's experimental enzyme replacement therapy for Fabry disease. With the assistance of the Honorable Daniel Weinstein, a retired state court judge from California, Kessler Topaz secured a \$50 million settlement from the Defendants during a complex and arduous mediation.

***In re PNC Financial Services Group, Inc. Sec. Litig., Case No. 02-CV-271 (W.D. Pa. 2002):***

Kessler Topaz served as Co-Lead Counsel in a securities class action case brought against PNC bank, certain of its officers and directors, and its outside auditor, Ernst & Young, LLP ("E&Y"), relating to the conduct of Defendants in establishing, accounting for and making disclosures concerning three special purpose entities ("SPEs") in the second, third and fourth quarters of PNC's 2001 fiscal year. Plaintiffs alleged that these entities were created by Defendants for the sole purpose of allowing PNC to secretly transfer hundreds of millions of dollars worth of non-performing assets from its own books to the books of the SPEs without disclosing the transfers or consolidating the results and then making positive announcements to the public concerning the bank's performance with respect to its non-performing assets. Complex issues were presented with respect to all defendants, but particularly E&Y. Throughout the litigation E&Y contended that because it did not make any false and misleading statements itself, the Supreme Court's opinion in *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164 (1993) foreclosed securities liability for "aiding or abetting" securities fraud for purposes of Section 10(b) liability. Plaintiffs, in addition to contending that E&Y did make false statements, argued that Rule 10b-5's deceptive conduct prong stood on its own as an independent means of committing fraud and that so long as E&Y itself committed a deceptive act, it could be found liable under the securities laws for fraud. After several years of litigation and negotiations, PNC paid \$30 million to settle the action, while also assigning any claims it may have had against E&Y and certain other entities that were involved in establishing and/or reporting on the SPEs. Armed with these claims, class counsel was able to secure an additional \$6.6 million in settlement funds for the class from two law firms and a third party insurance company and \$9.075 million from E&Y. Class counsel was also able to negotiate with the U.S. government, which had previously obtained a disgorgement fund of \$90 million from PNC and \$46 million from the third party insurance carrier, to combine all funds into a single settlement fund that exceeded \$180 million and is currently in the process of being distributed to the entire class, with PNC paying all costs of notifying the Class of the settlement.



***In re SemGroup Energy Partners, L.P., Sec. Litig., No. 08-md-1989 (DC) (N.D. Okla.):***

Kessler Topaz, which was appointed by the Court as sole Lead Counsel, litigated this matter, which ultimately settled for \$28 million. The defense was led by 17 of the largest and best capitalized defense law firms in the world. On April 20, 2010, in a fifty-page published opinion, the United States District Court for the Northern District of Oklahoma largely denied defendants' ten separate motions to dismiss Lead Plaintiff's Consolidated Amended Complaint. The Complaint alleged that: (i) defendants concealed SemGroup's risky trading operations that eventually caused SemGroup to declare bankruptcy; and (ii) defendants made numerous false statements concerning SemGroup's ability to provide its publicly-traded Master Limited Partnership stable cash-flows. The case was aggressively litigated out of the Firm's San Francisco and Radnor offices and the significant recovery was obtained, not only from the Company's principals, but also from its underwriters and outside directors.

***In re Liberate Technologies Sec. Litig., No. C-02-5017 (MJJ) (N.D. Cal. 2005):***

Kessler Topaz represented plaintiffs which alleged that Liberate engaged in fraudulent revenue recognition practices to artificially inflate the price of its stock, ultimately forcing it to restate its earnings. As sole Lead Counsel, Kessler Topaz successfully negotiated a \$13.8 million settlement, which represents almost 40% of the damages suffered by the class. In approving the settlement, the district court complimented Lead Counsel for its "extremely credible and competent job."

***In re Riverstone Networks, Inc. Sec. Litig., Case No. CV-02-3581 (N.D. Cal. 2002):***

Kessler Topaz served as Lead Counsel on behalf of plaintiffs alleging that Riverstone and certain of its officers and directors sought to create the impression that the Company, despite the industry-wide downturn in the telecom sector, had the ability to prosper and succeed and was actually prospering. In that regard, plaintiffs alleged that defendants issued a series of false and misleading statements concerning the Company's financial condition, sales and prospects, and used inside information to personally profit. After extensive litigation, the parties entered into formal mediation with the Honorable Charles Legge (Ret.). Following five months of extensive mediation, the parties reached a settlement of \$18.5 million.

## **Shareholder Derivative Actions**

***In re Facebook, Inc. Class C Reclassification Litig., C.A. No. 12286-VCL (Del. Ch. Sept. 25, 2017):***

Kessler Topaz served as co-lead counsel in this stockholder class action that challenged a proposed reclassification of Facebook's capital structure to accommodate the charitable giving goals of its founder and controlling stockholder Mark Zuckerberg. The Reclassification involved the creation of a new class of nonvoting Class C stock, which would be issued as a dividend to all Facebook Class A and Class B stockholders (including Zuckerberg) on a 2-for-1 basis. The purpose and effect of the Reclassification was that it would allow Zuckerberg to sell billions of dollars worth of nonvoting Class C shares without losing his voting control of Facebook. The litigation alleged that Zuckerberg and Facebook's board of directors breached their fiduciary duties in approving the Reclassification at the behest of Zuckerberg and for his personal benefit. At trial Kessler Topaz was seeking a permanent injunction to prevent the consummation of the Reclassification. The litigation was carefully followed in the business and corporate governance communities, due to the high-profile nature of Facebook, Zuckerberg, and the issues at stake. After almost a year and a half of hard fought litigation, just one business day before trial was set to commence, Facebook and Zuckerberg abandoned the Reclassification, granting Plaintiffs complete victory.

***In re CytRx Stockholder Derivative Litig., Consol. C.A. No. 9864-VCL (Del. Ch. Nov. 20, 2015):***

Kessler Topaz served as co-lead counsel in a shareholder derivative action challenging 2.745 million "spring-loaded" stock options. On the day before CytRx announced the most important news in the Company's history concerning the positive trial results for one of its significant pipeline drugs, the Compensation Committee of CytRx's Board of Directors granted the stock options to themselves, their

fellow directors and several Company officers which immediately came “into the money” when CytRx’s stock price shot up immediately following the announcement the next day. Kessler Topaz negotiated a settlement recovering 100% of the excess compensation received by the directors and approximately 76% of the damages potentially obtainable from the officers. In addition, as part of the settlement, Kessler Topaz obtained the appointment of a new independent director to the Board of Directors and the implementation of significant reforms to the Company’s stock option award processes. The Court complimented the settlement, explaining that it “serves what Delaware views as the overall positive function of stockholder litigation, which is not just recovery in the individual case but also deterrence and norm enforcement.”

***International Brotherhood of Electrical Workers Local 98 Pension Fund v. Black, et al., Case No. 37-2011-00097795-CU-SL-CTL (Sup. Ct. Cal., San Diego Feb. 5, 2016) (“Encore Capital Group, Inc.”):*** Kessler Topaz, as co-lead counsel, represented International Brotherhood of Electrical Workers Local 98 Pension Fund in a shareholder derivative action challenging breaches of fiduciary duties and other violations of law in connection with Encore’s debt collection practices, including robo-signing affidavits and improper use of the court system to collect alleged consumer debts. Kessler Topaz negotiated a settlement in which the Company implemented industry-leading reforms to its risk management and corporate governance practices, including creating Chief Risk Officer and Chief Compliance Officer positions, various compliance committees, and procedures for consumer complaint monitoring.

***In re Southern Peru Copper Corp. Derivative Litigation, Consol. CA No. 961-CS (Del. Ch. 2011):*** Kessler Topaz served as co-lead counsel in this landmark \$2 billion post-trial decision, believed to be the largest verdict in Delaware corporate law history. In 2005, Southern Peru, a publicly-traded copper mining company, acquired Minera Mexico, a private mining company owned by Southern Peru’s majority stockholder Grupo Mexico. The acquisition required Southern Peru to pay Grupo Mexico more than \$3 billion in Southern Peru stock. We alleged that Grupo Mexico had caused Southern Peru to grossly overpay for the private company in deference to its majority shareholder’s interests. Discovery in the case spanned years and continents, with depositions in Peru and Mexico. The trial court agreed and ordered Grupo Mexico to pay more than \$2 billion in damages and interest. The Delaware Supreme Court affirmed on appeal.

***Quinn v. Knight, No. 3:16-cv-610 (E.D. Va. Mar. 16, 2017) (“Apple REIT Ten”):*** This shareholder derivative action challenged a conflicted “roll up” REIT transaction orchestrated by Glade M. Knight and his son Justin Knight. The proposed transaction paid the Knights millions of dollars while paying public stockholders less than they had invested in the company. The case was brought under Virginia law, and settled just ten days before trial, with stockholders receiving an additional \$32 million in merger consideration.

***Kastis v. Carter, C.A. No. 8657-CB (Del. Ch. Sept. 19, 2016) (“Hemispherx Biopharma, Inc.”):*** This derivative action challenged improper bonuses paid to two company executives of this small pharmaceutical company that had never turned a profit. In response to the complaint, Hemispherx’s board first adopted a “fee-shifting” bylaw that would have required stockholder plaintiffs to pay the company’s legal fees unless the plaintiffs achieved 100% of the relief they sought. This sort of bylaw, if adopted more broadly, could substantially curtail meritorious litigation by stockholders unwilling to risk losing millions of dollars if they bring an unsuccessful case. After Kessler Topaz presented its argument in court, Hemispherx withdrew the bylaw. Kessler Topaz ultimately negotiated a settlement requiring the two executives to forfeit several million dollars’ worth of accrued but unpaid bonuses, future bonuses and director fees. The company also recovered \$1.75 million from its insurance carriers, appointed a new independent director to the board, and revised its compensation program.

***Montgomery v. Erickson, Inc., et al., C.A. No. 8784-VCL (Del. Ch. Sept. 12, 2016):***

Kessler Topaz represented an individual stockholder who asserted in the Delaware Court of Chancery class action and derivative claims challenging merger and recapitalization transactions that benefitted the company's controlling stockholders at the expense of the company and its minority stockholders. Plaintiff alleged that the controlling stockholders of Erickson orchestrated a series of transactions with the intent and effect of using Erickson's money to bail themselves out of a failing investment. Defendants filed a motion to dismiss the complaint, which Kessler Topaz defeated, and the case proceeded through more than a year of fact discovery. Following an initially unsuccessful mediation and further litigation, Kessler Topaz ultimately achieved an \$18.5 million cash settlement, 80% of which was distributed to members of the stockholder class to resolve their direct claims and 20% of which was paid to the company to resolve the derivative claims. The settlement also instituted changes to the company's governing documents to prevent future self-dealing transactions like those that gave rise to the case.

***In re Helios Closed-End Funds Derivative Litig., No. 2:11-cv-02935-SHM-TMP (W.D. Tenn.):***

Kessler Topaz represented stockholders of four closed-end mutual funds in a derivative action against the funds' former investment advisor, Morgan Asset Management. Plaintiffs alleged that the defendants mismanaged the funds by investing in riskier securities than permitted by the funds' governing documents and, after the values of these securities began to precipitously decline beginning in early 2007, cover up their wrongdoing by assigning phony values to the funds' investments and failing to disclose the extent of the decrease in value of the funds' assets. In a rare occurrence in derivative litigation, the funds' Boards of Directors eventually hired Kessler Topaz to prosecute the claims against the defendants on behalf of the funds. Our litigation efforts led to a settlement that recovered \$6 million for the funds and ensured that the funds would not be responsible for making any payment to resolve claims asserted against them in a related multi-million dollar securities class action. The fund's Boards fully supported and endorsed the settlement, which was negotiated independently of the parallel securities class action.

***In re Viacom, Inc. Shareholder Derivative Litig., Index No. 602527/05 (New York County, NY 2005):***

Kessler Topaz represented the Public Employees' Retirement System of Mississippi and served as Lead Counsel in a derivative action alleging that the members of the Board of Directors of Viacom, Inc. paid excessive and unwarranted compensation to Viacom's Executive Chairman and CEO, Sumner M. Redstone, and co-COOs Thomas E. Freston and Leslie Moonves, in breach of their fiduciary duties. Specifically, we alleged that in fiscal year 2004, when Viacom reported a record net loss of \$17.46 billion, the board improperly approved compensation payments to Redstone, Freston, and Moonves of approximately \$56 million, \$52 million, and \$52 million, respectively. Judge Ramos of the New York Supreme Court denied Defendants' motion to dismiss the action as we overcame several complex arguments related to the failure to make a demand on Viacom's Board; Defendants then appealed that decision to the Appellate Division of the Supreme Court of New York. Prior to a decision by the appellate court, a settlement was reached in early 2007. Pursuant to the settlement, Sumner Redstone, the company's Executive Chairman and controlling shareholder, agreed to a new compensation package that, among other things, substantially reduces his annual salary and cash bonus, and ties the majority of his incentive compensation directly to shareholder returns.

***In re Family Dollar Stores, Inc. Derivative Litig., Master File No. 06-CVS-16796 (Mecklenburg County, NC 2006):***

Kessler Topaz served as Lead Counsel, derivatively on behalf of Family Dollar Stores, Inc., and against certain of Family Dollar's current and former officers and directors. The actions were pending in Mecklenburg County Superior Court, Charlotte, North Carolina, and alleged that certain of the company's officers and directors had improperly backdated stock options to achieve favorable exercise prices in violation of shareholder-approved stock option plans. As a result of these shareholder derivative actions, Kessler Topaz was able to achieve substantial relief for Family Dollar and its shareholders. Through Kessler Topaz's litigation of this action, Family Dollar agreed to cancel hundreds of thousands of stock options

granted to certain current and former officers, resulting in a seven-figure net financial benefit for the company. In addition, Family Dollar has agreed to, among other things: implement internal controls and granting procedures that are designed to ensure that all stock options are properly dated and accounted for; appoint two new independent directors to the board of directors; maintain a board composition of at least 75 percent independent directors; and adopt stringent officer stock-ownership policies to further align the interests of officers with those of Family Dollar shareholders. The settlement was approved by Order of the Court on August 13, 2007.

***Carbon County Employees Retirement System, et al., Derivatively on Behalf of Nominal Defendant Southwest Airlines Co. v. Gary C. Kelly, et al. Cause No. 08-08692 (District Court of Dallas County, Texas):***

As lead counsel in this derivative action, we negotiated a settlement with far-reaching implications for the safety and security of airline passengers.

Our clients were shareholders of Southwest Airlines Co. (Southwest) who alleged that certain officers and directors had breached their fiduciary duties in connection with Southwest's violations of Federal Aviation Administration safety and maintenance regulations. Plaintiffs alleged that from June 2006 to March 2007, Southwest flew 46 Boeing 737 airplanes on nearly 60,000 flights without complying with a 2004 FAA Airworthiness Directive requiring fuselage fatigue inspections. As a result, Southwest was forced to pay a record \$7.5 million fine. We negotiated numerous reforms to ensure that Southwest's Board is adequately apprised of safety and operations issues, and implementing significant measures to strengthen safety and maintenance processes and procedures.

***The South Financial Group, Inc. Shareholder Litigation, C.A. No. 2008-CP-23-8395 (S.C. C.C.P. 2009):***

Represented shareholders in derivative litigation challenging board's decision to accelerate "golden parachute" payments to South Financial Group's CEO as the company applied for emergency assistance in 2008 under the Troubled Asset Recovery Plan (TARP).

We sought injunctive relief to block the payments and protect the company's ability to receive the TARP funds. The litigation was settled with the CEO giving up part of his severance package and agreeing to leave the board, as well as the implementation of important corporate governance changes one commentator described as "unprecedented."

## **Options Backdating**

In 2006, the Wall Street Journal reported that three companies appeared to have "backdated" stock option grants to their senior executives, pretending that the options had been awarded when the stock price was at its lowest price of the quarter, or even year. An executive who exercised the option thus paid the company an artificially low price, which stole money from the corporate coffers. While stock options are designed to incentivize recipients to drive the company's stock price up, backdating options to artificially low prices undercut those incentives, overpaid executives, violated tax rules, and decreased shareholder value.

Kessler Topaz worked with a financial analyst to identify dozens of other companies that had engaged in similar practices, and filed more than 50 derivative suits challenging the practice. These suits sought to force the executives to disgorge their improper compensation and to revamp the companies' executive compensation policies. Ultimately, as lead counsel in these derivative actions, Kessler Topaz achieved significant monetary and non-monetary benefits at dozens of companies, including:

***Comverse Technology, Inc.:*** Settlement required Comverse’s founder and CEO Kobi Alexander, who fled to Namibia after the backdating was revealed, to disgorge more than \$62 million in excessive backdated option compensation. The settlement also overhauled the company’s corporate governance and internal controls, replacing a number of directors and corporate executives, splitting the Chairman and CEO positions, and instituting majority voting for directors.

***Monster Worldwide, Inc.:*** Settlement required recipients of backdated stock options to disgorge more than \$32 million in unlawful gains back to the company, plus agreeing to significant corporate governance measures. These measures included (a) requiring Monster’s founder Andrew McKelvey to reduce his voting control over Monster from 31% to 7%, by exchanging super-voting stock for common stock; and (b) implementing new equity granting practices that require greater accountability and transparency in the granting of stock options moving forward. In approving the settlement, the court noted “the good results, mainly the amount of money for the shareholders and also the change in governance of the company itself, and really the hard work that had to go into that to achieve the results....”

***Affiliated Computer Services, Inc.:*** Settlement required executives, including founder Darwin Deason, to give up \$20 million in improper backdated options. The litigation was also a catalyst for the company to replace its CEO and CFO and revamp its executive compensation policies.

## **Mergers & Acquisitions Litigation**

### ***City of Daytona Beach Police and Fire Pension Fund v. ExamWorks Group, Inc., et al., C.A. No. 12481-VCL (Del. Ch.):***

On September 12, 2017, the Delaware Chancery Court approved one of the largest class action M&A settlements in the history of the Delaware Chancery Court, a \$86.5 million settlement relating to the acquisition of ExamWorks Group, Inc. by private equity firm Leonard Green & Partners, LP.

The settlement caused ExamWorks stockholders to receive a 6% improvement on the \$35.05 per share merger consideration negotiated by the defendants. This amount is unusual especially for litigation challenging a third-party merger. The settlement amount is also noteworthy because it includes a \$46.5 million contribution from ExamWorks’ outside legal counsel, Paul Hastings LLP.

### ***In re ArthroCare Corporation S’holder Litig., Consol. C.A. No. 9313-VCL (Del. Ch. Nov. 13, 2014):***

Kessler Topaz, as co-lead counsel, challenged the take-private of Arthrocare Corporation by private equity firm Smith & Nephew. This class action litigation alleged, among other things, that Arthrocare’s Board breached their fiduciary duties by failing to maximize stockholder value in the merger. Plaintiffs also alleged that the merger violated Section 203 of the Delaware General Corporation Law, which prohibits mergers with “interested stockholders,” because Smith & Nephew had contracted with JP Morgan to provide financial advice and financing in the merger, while a subsidiary of JP Morgan owned more than 15% of Arthrocare’s stock. Plaintiffs also alleged that the agreement between Smith & Nephew and the JP Morgan subsidiary violated a “standstill” agreement between the JP Morgan subsidiary and Arthrocare. The court set these novel legal claims for an expedited trial prior to the closing of the merger. The parties agreed to settle the action when Smith & Nephew agreed to increase the merger consideration paid to Arthrocare stockholders by \$12 million, less than a month before trial.

### ***In re Safeway Inc. Stockholders Litig., C.A. No. 9445-VCL (Del. Ch. Sept. 17, 2014):***

Kessler Topaz represented the Oklahoma Firefighters Pension and Retirement System in class action litigation challenging the acquisition of Safeway, Inc. by Albertson’s grocery chain for \$32.50 per share in cash and contingent value rights. Kessler Topaz argued that the value of CVRs was illusory, and Safeway’s shareholder rights plan had a prohibitive effect on potential bidders making superior offers to acquire



Safeway, which undermined the effectiveness of the post-signing “go shop.” Plaintiffs sought to enjoin the transaction, but before the scheduled preliminary injunction hearing took place, Kessler Topaz negotiated (i) modifications to the terms of the CVRs and (ii) defendants’ withdrawal of the shareholder rights plan. In approving the settlement, Vice Chancellor Laster of the Delaware Chancery Court stated that “the plaintiffs obtained significant changes to the transaction . . . that may well result in material increases in the compensation received by the class,” including substantial benefits potentially in excess of \$230 million.

***In re MPG Office Trust, Inc. Preferred Shareholder Litig., Cons. Case No. 24-C-13-004097 (Md. Cir. Oct. 20, 2015):***

Kessler Topaz challenged a coercive tender offer whereby MPG preferred stockholders received preferred stock in Brookfield Office Properties, Inc. without receiving any compensation for their accrued and unpaid dividends. Kessler Topaz negotiated a settlement where MPG preferred stockholders received a dividend of \$2.25 per share, worth approximately \$21 million, which was the only payment of accrued dividends Brookfield DTLA Preferred Stockholders had received as of the time of the settlement.

***In re Globe Specialty Metals, Inc. Stockholders Litig., C.A. 10865-VCG (Del. Ch. Feb. 15, 2016):***

Kessler Topaz served as co-lead counsel in class action litigation arising from Globe’s acquisition by Grupo Atlantica to form Ferroglobe. Plaintiffs alleged that Globe’s Board breached their fiduciary duties to Globe’s public stockholders by agreeing to sell Globe for an unfair price, negotiating personal benefits for themselves at the expense of the public stockholders, failing to adequately inform themselves of material issues with Grupo Atlantica, and issuing a number of materially deficient disclosures in an attempt to mask issues with the negotiations. At oral argument on Plaintiffs’ preliminary injunction motion, the Court held that Globe stockholders likely faced irreparable harm from the Board’s conduct, but reserved ruling on the other preliminary injunction factors. Prior to the Court’s final ruling, the parties agreed to settle the action for \$32.5 million and various corporate governance reforms to protect Globe stockholders’ rights in Ferroglobe.

***In re Dole Food Co., Inc. Stockholder Litig., Consol. C.A. No. 8703-VCL, 2015 WL 5052214 (Del. Ch. Aug. 27, 2015):***

On August 27, 2015, Vice Chancellor J. Travis Laster issued his much-anticipated post-trial verdict in litigation by former stockholders of Dole Food Company against Dole’s chairman and controlling stockholder David Murdock. In a 106-page ruling, Vice Chancellor Laster found that Murdock and his longtime lieutenant, Dole’s former president and general counsel C. Michael Carter, unfairly manipulated Dole’s financial projections and misled the market as part of Murdock’s efforts to take the company private in a deal that closed in November 2013. Among other things, the Court concluded that Murdock and Carter “primed the market for the freeze-out by driving down Dole’s stock price” and provided the company’s outside directors with “knowingly false” information and intended to “mislead the board for Mr. Murdock’s benefit.”

Vice Chancellor Laster found that the \$13.50 per share going-private deal underpaid stockholders, and awarded class damages of \$2.74 per share, totaling \$148 million. That award represents the largest post-trial class recovery in the merger context. The largest post-trial derivative recovery in a merger case remains Kessler Topaz’s landmark 2011 \$2 billion verdict in *In re Southern Peru*.

***In re Genentech, Inc. Shareholders Lit., Cons. Civ. Action No. 3991-VCS (Del. Ch. 2008):***

Kessler Topaz served as Co-Lead Counsel in this shareholder class action brought against the directors of Genentech and Genentech’s majority stockholder, Roche Holdings, Inc., in response to Roche’s July 21, 2008 attempt to acquire Genentech for \$89 per share. We sought to enforce provisions of an Affiliation Agreement between Roche and Genentech and to ensure that Roche fulfilled its fiduciary obligations to Genentech’s shareholders through any buyout effort by Roche. After moving to enjoin the tender offer, Kessler Topaz negotiated with Roche and Genentech to amend the Affiliation Agreement to allow a

negotiated transaction between Roche and Genentech, which enabled Roche to acquire Genentech for \$95 per share, approximately \$3.9 billion more than Roche offered in its hostile tender offer. In approving the settlement, then-Vice Chancellor Leo Strine complimented plaintiffs' counsel, noting that this benefit was only achieved through "real hard-fought litigation in a complicated setting."

***In re GSI Commerce, Inc. Shareholder Litig., Consol. C.A. No. 6346-VCN (Del. Ch. Nov. 15, 2011):***

On behalf of the Erie County Employees' Retirement System, we alleged that GSI's founder breached his fiduciary duties by negotiating a secret deal with eBay for him to buy several GSI subsidiaries at below market prices before selling the remainder of the company to eBay. These side deals significantly reduced the acquisition price paid to GSI stockholders. Days before an injunction hearing, we negotiated an improvement in the deal price of \$24 million.

***In re Amicas, Inc. Shareholder Litigation, 10-0174-BLS2 (Suffolk County, MA 2010):***

Kessler Topaz served as lead counsel in class action litigation challenging a proposed private equity buyout of Amicas that would have paid Amicas shareholders \$5.35 per share in cash while certain Amicas executives retained an equity stake in the surviving entity moving forward. Kessler Topaz prevailed in securing a preliminary injunction against the deal, which then allowed a superior bidder to purchase the Company for an additional \$0.70 per share (\$26 million). The court complimented Kessler Topaz attorneys for causing an "exceptionally favorable result for Amicas' shareholders" after "expend[ing] substantial resources."

***In re Harleysville Mutual, Nov. Term 2011, No. 02137 (C.C.P., Phila. Cnty.):***

Kessler Topaz served as co-lead counsel in expedited merger litigation challenging Harleysville's agreement to sell the company to Nationwide Insurance Company. Plaintiffs alleged that policyholders were entitled to receive cash in exchange for their ownership interests in the company, not just new Nationwide policies. Plaintiffs also alleged that the merger was "fundamentally unfair" under Pennsylvania law. The defendants contested the allegations and contended that the claims could not be prosecuted directly by policyholders (as opposed to derivatively on the company's behalf). Following a two-day preliminary injunction hearing, we settled the case in exchange for a \$26 million cash payment to policyholders.

## **Consumer Protection and Fiduciary Litigation**

***In re: J.P. Jeanneret Associates Inc., et al., No. 09-cv-3907 (S.D.N.Y.):***

Kessler Topaz served as lead counsel for one of the plaintiff groups in an action against J.P. Jeanneret and Ivy Asset Management relating to an alleged breach of fiduciary and statutory duty in connection with the investment of retirement plan assets in Bernard Madoff-related entities. By breaching their fiduciary duties, Defendants caused significant losses to the retirement plans. Following extensive hard-fought litigation, the case settled for a total of \$216.5 million.

***In re: National City Corp. Securities, Derivative and ERISA Litig, No. 08-nc-7000 (N.D. Ohio):***

Kessler Topaz served as a lead counsel in this complex action alleging that certain directors and officers of National City Corp. breached their fiduciary duties under the Employee Retirement Income Security Act of 1974. These breaches arose from an investment in National City stock during a time when defendants knew, or should have known, that the company stock was artificially inflated and an imprudent investment for the company's 401(k) plan. The case settled for \$43 million on behalf of the plan, plaintiffs and a settlement class of plan participants.

***Alston, et al. v. Countrywide Financial Corp. et al., No. 07-cv-03508 (E.D. Pa.):***

Kessler Topaz served as lead counsel in this novel and complex action which alleged that Defendants Countrywide Financial Corporation, Countrywide Home Loans, Inc. and Balboa Reinsurance Co. violated

the Real Estate Settlement Procedure Act (“RESPA”) and ultimately cost borrowers millions of dollars. Specifically, the action alleged that Defendants engaged in a scheme related to private mortgage insurance involving kickbacks, which are prohibited under RESPA. After three and a half years of hard-fought litigation, the action settled for \$34 million.

***Trustees of the Local 464A United Food and Commercial Workers Union Pension Fund, et al. v. Wachovia Bank, N.A., et al., No. 09-cv-00668 (DNJ):***

For more than 50 years, Wachovia and its predecessors acted as investment manager for the Local 464A UFCW Union Funds, exercising investment discretion consistent with certain investment guidelines and fiduciary obligations. Until mid-2007, Wachovia managed the fixed income assets of the funds safely and conservatively, and their returns closely tracked the Lehman Aggregate Bond Index (now known as the Barclay’s Capital Aggregate Bond Index) to which the funds were benchmarked. However, beginning in mid-2007 Wachovia significantly changed the investment strategy, causing the funds’ portfolio value to drop drastically below the benchmark. Specifically, Wachovia began to dramatically decrease the funds’ holdings in short-term, high-quality, low-risk debt instruments and materially increase their holdings in high-risk mortgage-backed securities and collateralized mortgage obligations. We represented the funds’ trustees in alleging that, among other things, Wachovia breached its fiduciary duty by: failing to invest the assets in accordance with the funds’ conservative investment guidelines; failing to adequately monitor the funds’ fixed income investments; and failing to provide complete and accurate information to plaintiffs concerning the change in investment strategy. The matter was resolved privately between the parties.

***In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litig., No. 1:12-md-02335 (S.D.N.Y.):***

On behalf of the Southeastern Pennsylvania Transportation Authority Pension Fund and a class of similarly situated domestic custodial clients of BNY Mellon, we alleged that BNY Mellon secretly assigned a spread to the FX rates at which it transacted FX transactions on behalf of its clients who participated in the BNY Mellon’s automated “Standing Instruction” FX service. BNY Mellon determining this spread by executing its clients’ transactions at one rate and then, typically, at the end of the trading day, assigned a rate to its clients which approximated the worst possible rates of the trading day, pocketing the difference as riskless profit. This practice was despite BNY Mellon’s contractual promises to its clients that its Standing Instruction service was designed to provide “best execution,” was “free of charge” and provided the “best rates of the day.” The case asserted claims for breach of contract and breach of fiduciary duty on behalf of BNY Mellon’s custodial clients and sought to recover the unlawful profits that BNY Mellon earned from its unfair and unlawful FX practices. The case was litigated in collaboration with separate cases brought by state and federal agencies, with Kessler Topaz serving as lead counsel and a member of the executive committee overseeing the private litigation. After extensive discovery, including more than 100 depositions, over 25 million pages of fact discovery, and the submission of multiple expert reports, Plaintiffs reached a settlement with BNY Mellon of \$335 million. Additionally, the settlement is being administered by Kessler Topaz along with separate recoveries by state and federal agencies which bring the total recovery for BNY Mellon’s custodial customers to \$504 million. The settlement was finally approved on September 24, 2015. In approving the settlement, Judge Lewis Kaplan praised counsel for a “wonderful job,” recognizing that they were “fought tooth and nail at every step of the road.” In further recognition of the efforts of counsel, Judge Kaplan noted that “[t]his was an outrageous wrong by the Bank of New York Mellon, and plaintiffs’ counsel deserve a world of credit for taking it on, for running the risk, for financing it and doing a great job.”

***CompSource Oklahoma v. BNY Mellon Bank, N.A., No. CIV 08-469-KEW (E.D. Okla. October 25, 2012):***

Kessler Topaz served as Interim Class Counsel in this matter alleging that BNY Mellon Bank, N.A. and the Bank of New York Mellon (collectively, “BNYM”) breached their statutory, common law and contractual duties in connection with the administration of their securities lending program. The Second Amended



Complaint alleged, among other things, that BNYM imprudently invested cash collateral obtained under its securities lending program in medium term notes issued by Sigma Finance, Inc. -- a foreign structured investment vehicle (“SIV”) that is now in receivership -- and that such conduct constituted a breach of BNYM’s fiduciary obligations under the Employee Retirement Income Security Act of 1974, a breach of its fiduciary duties under common law, and a breach of its contractual obligations under the securities lending agreements. The Complaint also asserted claims for negligence, gross negligence and willful misconduct. The case recently settled for \$280 million.

***Transatlantic Holdings, Inc., et al. v. American International Group, Inc., et al., American Arbitration Association Case No. 50 148 T 00376 10:***

Kessler Topaz served as counsel for Transatlantic Holdings, Inc., and its subsidiaries (“TRH”), alleging that American International Group, Inc. and its subsidiaries (“AIG”) breached their fiduciary duties, contractual duties, and committed fraud in connection with the administration of its securities lending program. Until June 2009, AIG was TRH’s majority shareholder and, at the same time, administered TRH’s securities lending program. TRH’s Statement of Claim alleged that, among other things, AIG breached its fiduciary obligations as investment advisor and majority shareholder by imprudently investing the majority of the cash collateral obtained under its securities lending program in mortgage backed securities, including Alt-A and subprime investments. The Statement of Claim further alleged that AIG concealed the extent of TRH’s subprime exposure and that when the collateral pools began experiencing liquidity problems in 2007, AIG unilaterally carved TRH out of the pools so that it could provide funding to its wholly owned subsidiaries to the exclusion of TRH. The matter was litigated through a binding arbitration and TRH was awarded \$75 million.

***Board of Trustees of the AFTRA Retirement Fund v. JPMorgan Chase Bank, N.A. – Consolidated Action No. 09-cv-00686 (SAS) (S.D.N.Y.):***

On January 23, 2009, the firm filed a class action complaint on behalf of all entities that were participants in JPMorgan’s securities lending program and that incurred losses on investments that JPMorgan, acting in its capacity as a discretionary investment manager, made in medium-term notes issue by Sigma Finance, Inc. – a now defunct structured investment vehicle. The losses of the Class exceeded \$500 million. The complaint asserted claims for breach of fiduciary duty under the Employee Retirement Income Security Act (ERISA), as well as common law breach of fiduciary duty, breach of contract and negligence. Over the course of discovery, the parties produced and reviewed over 500,000 pages of documents, took 40 depositions (domestic and foreign) and exchanged 21 expert reports. The case settled for \$150 million. Trial was scheduled to commence on February 6, 2012.

***In re Global Crossing, Ltd. ERISA Litigation, No. 02 Civ. 7453 (S.D.N.Y. 2004):***

Kessler Topaz served as Co-Lead Counsel in this novel, complex and high-profile action which alleged that certain directors and officers of Global Crossing, a former high-flier of the late 1990’s tech stock boom, breached their fiduciary duties under the Employee Retirement Income Security Act of 1974 (“ERISA”) to certain company-provided 401(k) plans and their participants. These breaches arose from the plans’ alleged imprudent investment in Global Crossing stock during a time when defendants knew, or should have known, that the company was facing imminent bankruptcy. A settlement of plaintiffs’ claims restoring \$79 million to the plans and their participants was approved in November 2004. At the time, this represented the largest recovery received in a company stock ERISA class action.

***In re AOL Time Warner ERISA Litigation, No. 02-CV-8853 (S.D.N.Y. 2006):***

Kessler Topaz, which served as Co-Lead Counsel in this highly-publicized ERISA fiduciary breach class action brought on behalf of the Company’s 401(k) plans and their participants, achieved a record \$100 million settlement with defendants. The \$100 million restorative cash payment to the plans (and, concomitantly, their participants) represents the largest recovery from a single defendant in a breach of fiduciary action relating to mismanagement of plan assets held in the form of employer securities. The

action asserted claims for breach of fiduciary duties pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”) on behalf of the participants in the AOL Time Warner Savings Plan, the AOL Time Warner Thrift Plan, and the Time Warner Cable Savings Plan (collectively, the “Plans”) whose accounts purchased and/or held interests in the AOLTW Stock Fund at any time between January 27, 1999 and July 3, 2003. Named as defendants in the case were Time Warner (and its corporate predecessor, AOL Time Warner), several of the Plans’ committees, as well as certain current and former officers and directors of the company. In March 2005, the Court largely denied defendants’ motion to dismiss and the parties began the discovery phase of the case. In January 2006, Plaintiffs filed a motion for class certification, while at the same time defendants moved for partial summary judgment. These motions were pending before the Court when the settlement in principle was reached. Notably, an Independent Fiduciary retained by the Plans to review the settlement in accordance with Department of Labor regulations approved the settlement and filed a report with Court noting that the settlement, in addition to being “more than a reasonable recovery” for the Plans, is “one of the largest ERISA employer stock action settlements in history.”

***In re Honeywell International ERISA Litigation, No. 03-1214 (DRD) (D.N.J. 2004):***

Kessler Topaz served as Lead Counsel in a breach of fiduciary duty case under ERISA against Honeywell International, Inc. and certain fiduciaries of Honeywell defined contribution pension plans. The suit alleged that Honeywell and the individual fiduciary defendants, allowed Honeywell’s 401(k) plans and their participants to imprudently invest significant assets in company stock, despite that defendants knew, or should have known, that Honeywell’s stock was an imprudent investment due to undisclosed, wide-ranging problems stemming from a consummated merger with Allied Signal and a failed merger with General Electric. The settlement of plaintiffs’ claims included a \$14 million payment to the plans and their affected participants, and significant structural relief affording participants much greater leeway in diversifying their retirement savings portfolios.

***Henry v. Sears, et. al., Case No. 98 C 4110 (N.D. Ill. 1999):***

The Firm served as Co-Lead Counsel for one of the largest consumer class actions in history, consisting of approximately 11 million Sears credit card holders whose interest rates were improperly increased in connection with the transfer of the credit card accounts to a national bank. Kessler Topaz successfully negotiated a settlement representing approximately 66% of all class members’ damages, thereby providing a total benefit exceeding \$156 million. All \$156 million was distributed automatically to the Class members, without the filing of a single proof of claim form. In approving the settlement, the District Court stated: “. . . I am pleased to approve the settlement. I think it does the best that could be done under the circumstances on behalf of the class. . . . The litigation was complex in both liability and damages and required both professional skill and standing which class counsel demonstrated in abundance.”

## **Antitrust Litigation**

***In re: Flonase Antitrust Litigation, No. 08-cv-3149 (E.D. Pa.):***

Kessler Topaz served as a lead counsel on behalf of a class of direct purchaser plaintiffs in an antitrust action brought pursuant to Section 4 of the Clayton Act, 15 U.S.C. § 15, alleging, among other things, that defendant GlaxoSmithKline (GSK) violated Section 2 of the Sherman Act, 15 U.S.C. § 2, by engaging in “sham” petitioning of a government agency. Specifically, the Direct Purchasers alleged that GSK unlawfully abused the citizen petition process contained in Section 505(j) of the Federal Food, Drug, and Cosmetic Act and thus delayed the introduction of less expensive generic versions of Flonase, a highly popular allergy drug, causing injury to the Direct Purchaser Class. Throughout the course of the four year litigation, Plaintiffs defeated two motions for summary judgment, succeeded in having a class certified and conducted extensive discovery. After lengthy negotiations and shortly before trial, the action settled for \$150 million.

***In re: Wellbutrin SR Antitrust Litigation, No. 04-cv-5898 (E.D. Pa.):***

Kessler Topaz was a lead counsel in an action which alleged, among other things, that defendant GlaxoSmithKline (GSK) violated the antitrust, consumer fraud, and consumer protection laws of various states. Specifically, Plaintiffs and the class of Third-Party Payors alleged that GSK manipulated patent filings and commenced baseless infringement lawsuits in connection wrongfully delaying generic versions of Wellbutrin SR and Zyban from entering the market, and that Plaintiffs and the Class of Third-Party Payors suffered antitrust injury and calculable damages as a result. After more than eight years of litigation, the action settled for \$21.5 million.

***In re: Metoprolol Succinate End-Payor Antitrust Litigation, No. 06-cv-71 (D. Del.):***

Kessler Topaz was co-lead counsel in a lawsuit which alleged that defendant AstraZeneca prevented generic versions of Toprol-XL from entering the market by, among other things, improperly manipulating patent filings and filing baseless patent infringement lawsuits. As a result, AstraZeneca unlawfully monopolized the domestic market for Toprol-XL and its generic bio-equivalents. After seven years of litigation, extensive discovery and motion practice, the case settled for \$11 million.

***In re Remeron Antitrust Litigation, No. 02-CV-2007 (D.N.J. 2004):***

Kessler Topaz was Co-Lead Counsel in an action which challenged Organon, Inc.'s filing of certain patents and patent infringement lawsuits as an abuse of the Hatch-Waxman Act, and an effort to unlawfully extend their monopoly in the market for Remeron. Specifically, the lawsuit alleged that defendants violated state and federal antitrust laws in their efforts to keep competing products from entering the market, and sought damages sustained by consumers and third-party payors. After lengthy litigation, including numerous motions and over 50 depositions, the matter settled for \$36 million.

## **OUR PROFESSIONALS**

### **PARTNERS**

**JULES D. ALBERT**, a partner of the Firm, concentrates his practice in mergers and acquisition litigation and stockholder derivative litigation. Mr. Albert received his law degree from the University of Pennsylvania Law School, where he was a Senior Editor of the *University of Pennsylvania Journal of Labor and Employment Law* and recipient of the James Wilson Fellowship. Mr. Albert also received a Certificate of Study in Business and Public Policy from The Wharton School at the University of Pennsylvania. Mr. Albert graduated *magna cum laude* with a Bachelor of Arts in Political Science from Emory University. Mr. Albert is licensed to practice law in Pennsylvania, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

Mr. Albert has litigated in state and federal courts across the country, and has represented stockholders in numerous actions that have resulted in significant monetary recoveries and corporate governance improvements, including: *In re Sunrise Senior Living, Inc. Deriv. Litig.*, No. 07-00143 (D.D.C.); *Mercier v. Whittle, et al.*, No. 2008-CP-23-8395 (S.C. Ct. Com. Pl., 13th Jud. Cir.); *In re K-V Pharmaceutical Co. Deriv. Litig.*, No. 06-00384 (E.D. Mo.); *In re Progress Software Corp. Deriv. Litig.*, No. SUCV2007-01937-BLS2 (Mass. Super. Ct., Suffolk Cty.); *In re Quest Software, Inc. Deriv. Litig.* No 06CC00115 (Cal. Super. Ct., Orange Cty.); and *Quaco v. Balakrishnan, et al.*, No. 06-2811 (N.D. Cal.).

**NAUMON A. AMJED**, a partner of the Firm, concentrates his practice on new matter development with a focus on analyzing securities class action lawsuits, direct (or opt-out) actions, non-U.S. securities and shareholder litigation, SEC whistleblower actions, breach of fiduciary duty cases, antitrust matters, data

breach actions and oil and gas litigation. Mr. Amjed is a graduate of the Villanova University School of Law, *cum laude*, and holds an undergraduate degree in business administration from Temple University, *cum laude*. Mr. Amjed is a member of the Delaware State Bar, the Bar of the Commonwealth of Pennsylvania, the New York State Bar, and is admitted to practice before the United States Courts for the District of Delaware, the Eastern District of Pennsylvania and the Southern District of New York.

As a member of the Firm's lead plaintiff practice group, Mr. Amjed has represented clients serving as lead plaintiffs in several notable securities class action lawsuits including: *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09MDL2058 (S.D.N.Y.) (settled -- \$2.425 billion); *In re Wachovia Preferred Securities and Bond/Notes Litigation*, No. 09-cv-6351 (RJS) (S.D.N.Y.) (\$627 million recovery); *In re Lehman Bros. Equity/Debt Securities Litigation*, No. 08-cv-5523 (LAK) (S.D.N.Y.) (\$615 million recovery) and *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery). Additionally, Mr. Amjed served on the national Executive Committee representing financial institutions suffering losses from Target Corporation's 2013 data breach – one of the largest data breaches in history. The Target litigation team was responsible for a landmark data breach opinion that substantially denied Target's motion to dismiss and was also responsible for obtaining certification of a class of financial institutions. *See In re Target Corp. Customer Data Sec. Breach Litig.*, 64 F. Supp. 3d 1304 (D. Minn. 2014); *In re Target Corp. Customer Data Sec. Breach Litig.*, No. MDL 14-2522 PAM/JJK, 2015 WL 5432115 (D. Minn. Sept. 15, 2015). At the time of its issuance, the class certification order in Target was the first of its kind in data breach litigation by financial institutions.

Mr. Amjed also has significant experience conducting complex litigation in state and federal courts including federal securities class actions, shareholder derivative actions, suits by third-party insurers and other actions concerning corporate and alternative business entity disputes. Mr. Amjed has litigated in numerous state and federal courts across the country, including the Delaware Court of Chancery, and has represented shareholders in several high profile lawsuits, including: *LAMPERS v. CBOT Holdings, Inc. et al.*, C.A. No. 2803-VCN (Del. Ch.); *In re Alstom SA Sec. Litig.*, 454 F. Supp. 2d 187 (S.D.N.Y. 2006); *In re Global Crossing Sec. Litig.*, 02— Civ. — 910 (S.D.N.Y.); *In re Enron Corp. Sec. Litig.*, 465 F. Supp. 2d 687 (S.D. Tex. 2006); and *In re Marsh McLennan Cos., Inc. Sec. Litig.* 501 F. Supp. 2d 452 (S.D.N.Y. 2006).

**ETHAN J. BARLIEB**, a partner of the Firm, concentrates his practice in the areas of ERISA, consumer protection and antitrust litigation. Mr. Barlieb received his law degree, *magna cum laude*, from the University of Miami School of Law in 2007 and his undergraduate degree from Cornell University in 2003. Mr. Barlieb is licensed to practice in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Mr. Barlieb was an associate with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, where he worked on various commercial, securities and employment matters. Before that, Mr. Barlieb served as a law clerk for the Honorable Mitchell S. Goldberg in the U.S. District Court for the Eastern District of Pennsylvania.

**STUART L. BERMAN**, a partner of the Firm, concentrates his practice on securities class action litigation in federal courts throughout the country, with a particular emphasis on representing institutional investors active in litigation. Mr. Berman received his law degree from George Washington University National Law Center, and is an honors graduate from Brandeis University. Mr. Berman is licensed to practice in Pennsylvania and New Jersey.

Mr. Berman regularly counsels and educates institutional investors located around the world on emerging legal trends, new case ideas and the rights and obligations of institutional investors as they relate to securities fraud class actions and individual actions. In this respect, Mr. Berman has been instrumental in

courts appointing the Firm's institutional clients as lead plaintiffs in class actions as well as in representing institutions individually in direct actions. Mr. Berman is currently representing institutional investors in direct actions against Vivendi and Merck, and took a very active role in the precedent setting Shell settlement on behalf of many of the Firm's European institutional clients.

Mr. Berman is a frequent speaker on securities issues, especially as they relate to institutional investors, at events such as The European Pension Symposium in Florence, Italy; the Public Funds Symposium in Washington, D.C.; the Pennsylvania Public Employees Retirement (PAPERS) Summit in Harrisburg, Pennsylvania; the New England Pension Summit in Newport, Rhode Island; the Rights and Responsibilities for Institutional Investors in Amsterdam, Netherlands; and the European Investment Roundtable in Barcelona, Spain.

**DAVID A. BOCIAN**, a partner of the Firm, focuses his practice on whistleblower representation and False Claims Act litigation. Mr. Bocian received his law degree from the University of Virginia School of Law and graduated *cum laude* from Princeton University. He is licensed to practice law in the Commonwealth of Pennsylvania, New Jersey, New York and the District of Columbia.

Mr. Bocian began his legal career in Washington, D.C., as a litigation associate at Patton Boggs LLP, where his practice included internal corporate investigations, government contracts litigation and securities fraud matters. He spent more than ten years as a federal prosecutor in the U.S. Attorney's Office for the District of New Jersey, where he was appointed Senior Litigation Counsel and managed the Trenton U.S. Attorney's office. During his tenure, Mr. Bocian oversaw multifaceted investigations and prosecutions pertaining to government corruption and federal program fraud, commercial and public sector kickbacks, tax fraud, and other white collar and financial crimes. He tried numerous cases before federal juries, and was a recipient of the Justice Department's Director's Award for superior performance by an Assistant U.S. Attorney, as well as commendations from federal law enforcement agencies including the FBI and IRS.

Mr. Bocian has extensive experience in the health care field. As an adjunct professor of law, he has taught Healthcare Fraud and Abuse at Rutgers School of Law – Camden, and previously was employed in the health care industry, where he was responsible for implementing and overseeing a system-wide compliance program for a complex health system.

**GREGORY M. CASTALDO**, a partner of the Firm, concentrates his practice in the area of securities litigation. Mr. Castaldo received his law degree from Loyola Law School, where he received the American Jurisprudence award in legal writing. He received his undergraduate degree from the Wharton School of Business at the University of Pennsylvania. He is licensed to practice law in Pennsylvania and New Jersey.

Mr. Castaldo served as one of Kessler Topaz's lead litigation partners in *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion). Mr. Castaldo also served as the lead litigation partner in *In re Tenet Healthcare Corp.*, No. 02-CV-8462 (C.D. Cal. 2002), securing an aggregate recovery of \$281.5 million for the class, including \$65 million from Tenet's auditor. Mr. Castaldo also played a primary litigation role in the following cases: *In re Liberate Technologies Sec. Litig.*, No. C-02-5017 (MJJ) (N.D. Cal. 2005) (settled — \$13.8 million); *In re Sodexo Marriott Shareholders Litig.*, Consol. C.A. No. 18640-NC (Del. Ch. 1999) (settled — \$166 million benefit); *In re Motive, Inc. Sec. Litig.*, 05-CV-923 (W.D.Tex. 2005) (settled — \$7 million cash, 2.5 million shares); and *In re Wireless Facilities, Inc., Sec. Litig.*, 04-CV-1589 (S.D. Cal. 2004) (settled — \$16.5 million). In addition, Mr. Castaldo served as one of the lead trial attorneys for shareholders in the historic *In re Longtop Financial Technologies Ltd. Securities Litigation*, No. 11-cv-3658 (S.D.N.Y.) trial, which resulted in a verdict in favor of investors on liability and damages.



**DARREN J. CHECK**, a Partner of the Firm, manages Kessler Topaz's portfolio monitoring & claims filing service, *SecuritiesTracker*<sup>™</sup>, and works closely with the Firm's litigators and new matter development department. He consults with institutional investors from around the world with regard to implementing systems to best identify, analyze, and monetize claims they have in shareholder litigation.

In addition, Darren assists Firm clients in evaluating opportunities to take an active role in shareholder litigation, arbitration, and other loss recovery methods. This includes U.S. based litigation and arbitration, as well as actions in an increasing number of jurisdictions around the globe. With an increasingly complex investment and legal landscape, Mr. Check has experience advising on traditional class actions, direct actions (opt-outs), non-U.S. opt-in actions, fiduciary actions, appraisal actions and arbitrations to name a few. Over the last twenty years Darren has become a trusted advisor to hedge funds, mutual fund managers, asset managers, insurance companies, sovereign wealth funds, central banks, and pension funds throughout North America, Europe, Asia, Australia, and the Middle East.

Darren regularly speaks on the subjects of shareholder litigation, corporate governance, investor activism, and recovery of investment losses at conferences around the world. He has also been actively involved in the precedent setting Shell and Fortis settlements in the Netherlands, the Olympus shareholder case in Japan, direct actions against Petrobras and Merck, and securities class actions against Bank of America, Lehman Brothers, Royal Bank of Scotland (U.K.), and Hewlett-Packard. Currently Mr. Check represents investors in numerous high profile actions in the United States, the Netherlands, Germany, France, Japan, and Australia.

Darren received his law degree from Temple University School of Law and is a graduate of Franklin & Marshall College. He is admitted to practice in numerous state and federal courts across the United States.

**EMILY N. CHRISTIANSEN**, a partner of the Firm, focuses her practice in securities litigation and international actions, in particular. Ms. Christiansen received her Juris Doctor and Global Law certificate, *cum laude*, from Lewis and Clark Law School in 2012. Ms. Christiansen is a graduate of the University of Portland, where she received her Bachelor of Arts, *cum laude*, in Political Science and German Studies. Ms. Christiansen is currently licensed to practice law in New York and Pennsylvania.

While in law school, Ms. Christiansen worked as an intern in Trial Chambers III at the International Criminal Tribunal for the Former Yugoslavia. Ms. Christiansen also spent two months in India as foreign legal trainee with the corporate law firm of Fox Mandal. Ms. Christiansen is a 2007 recipient of a Fulbright Fellowship and is fluent in German.

Ms. Christiansen devotes her time to advising clients on the challenges and benefits of pursuing particular litigation opportunities in jurisdictions outside the U.S. In those non-US actions where Kessler Topaz is actively involved, Emily liaises with local counsel, helps develop case strategy, reviews pleadings, and helps clients understand and successfully navigate the legal process. Her experience includes non-US opt-in actions, international law, and portfolio monitoring and claims administration. In her role, Ms. Christiansen has helped secure recoveries for institutional investors in litigation in Japan against *Olympus Corporation* (settled - ¥11 billion) and in the Netherlands against *Fortis Bank N.V.* (settled - €1.2 billion).

**JOSHUA E. D'ANCONA**, a partner of the Firm, concentrates his practice in the securities litigation and lead plaintiff departments of the Firm. Mr. D'Ancona received his J.D., *magna cum laude*, from the Temple University Beasley School of Law in 2007, where he served on the Temple Law Review and as president of the Moot Court Honors Society, and graduated with honors from Wesleyan University. He is licensed to practice in Pennsylvania and New Jersey.

Before joining the Firm in 2009, he served as a law clerk to the Honorable Cynthia M. Rufe of the United States District Court for the Eastern District of Pennsylvania.

**RYAN T. DEGNAN**, a partner of the Firm, concentrates his practice on new matter development with a specific focus on analyzing securities class action lawsuits, antitrust actions, and complex consumer actions. Mr. Degnan received his law degree from Temple University Beasley School of Law, where he was a Notes and Comments Editor for the Temple Journal of Science, Technology & Environmental Law, and earned his undergraduate degree in Biology from The Johns Hopkins University. While a law student, Mr. Degnan served as a Judicial Intern to the Honorable Gene E.K. Pratter of the United States District Court for the Eastern District of Pennsylvania. Mr. Degnan is licensed to practice in Pennsylvania and New Jersey.

As a member of the Firm's lead plaintiff litigation practice group, Mr. Degnan has helped secure the Firm's clients' appointments as lead plaintiffs in: *In re HP Sec. Litig.*, No. 12-cv-5090, 2013 WL 792642 (N.D. Cal. Mar. 4, 2013); *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery); *Freedman v. St. Jude Medical, Inc., et al.*, No. 12-cv-3070 (D. Minn.); *United Union of Roofers, Waterproofers & Allied Workers Local Union No. 8 v. Ocwen Fin. Corp.*, No. 14 Civ. 81057 (WPD), 2014 WL 7236985 (S.D. Fla. Nov. 7, 2014); *Louisiana Municipal Police Employees' Ret. Sys. v. Green Mountain Coffee Roasters, Inc., et al.*, No. 11-cv-289, 2012 U.S. Dist. LEXIS 89192 (D. Vt. Apr. 27, 2012); and *In re Longtop Fin. Techs. Ltd. Sec. Litig.*, No. 11-cv-3658, 2011 U.S. Dist. LEXIS 112970 (S.D.N.Y. Oct. 4, 2011). Additional representative matters include: *In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litig.*, No. 12-md-02335 (S.D.N.Y.) (\$335 million settlement); and *Policemen's Annuity and Benefit Fund of the City of Chicago, et al. v. Bank of America, NA, et al.*, No. 12-cv-02865 (S.D.N.Y.) (\$69 million settlement).

**ERIC K. GERARD**, a partner of the Firm, is a former federal prosecutor and experienced trial lawyer whose practice focuses on securities fraud, antitrust, and consumer protection litigation. Eric received his law degree from the University of Virginia School of Law, earning Order of the Coif honors while completing a master's degree in international economics at the Johns Hopkins University.

Before joining Kessler Topaz, Eric served an Assistant District Attorney at the Manhattan District Attorney's Office, as a civil litigator at an international law firm in Houston and a prominent boutique in New Orleans, and as an Assistant U.S. Attorney in Florida. He has tried a range of complex cases to verdict, including international money laundering, wire fraud conspiracy, securities counterfeiting, identity theft, obstruction of justice, extraterritorial child exploitation, civil healthcare liability claims, and murder-for-hire.

**ELI R. GREENSTEIN** is managing partner of the Firm's San Francisco office and a member of the Firm's federal securities litigation practice group. Mr. Greenstein concentrates his practice on federal securities law violations and white collar fraud, including violations of the Securities Act of 1933 and the Securities Exchange Act of 1934. Mr. Greenstein received his J.D. from Santa Clara University School of Law in 2001, and his M.B.A. from Santa Clara's Leavey School of Business in 2002. Mr. Greenstein received his B.A. in Business Administration from the University of San Diego in 1997 where he was awarded the Presidential Scholarship. He is licensed to practice in California.

Mr. Greenstein also was a judicial extern for the Honorable James Ware (Ret.), Chief Judge of the United States District Court for the Northern District of California. Prior to joining the Firm, Mr. Greenstein was a partner at Robbins Geller Rudman & Dowd LLP in its federal securities litigation practice group. His relevant background also includes consulting for PricewaterhouseCoopers LLP's International Tax and Legal Services division, and work on the trading floor of the Chicago Mercantile Exchange, S&P 500 futures and options division.

Mr. Greenstein has been involved in dozens of high-profile securities fraud actions resulting in more than \$1 billion in recoveries for clients and investors, including: *Nieman v. Duke Energy Corp.*, 2013 U.S. Dist. LEXIS 110693 (W.D.N.C.) (\$146 million recovery); *In re HP Secs. Litig.*, 2013 U.S. Dist. LEXIS 168292 (N.D. Cal.) (\$100 million recovery); *In re VeriFone Holdings, Inc. Sec. Litig.*, 704 F.3d 694 (N.D. Cal.) (\$95 million recovery); *In re AOL Time Warner Sec. Litig. State Opt-Out Actions (Regents of the Univ. of Cal. v. Parsons* (Cal. Super. Ct.), *Ohio Pub. Emps. Ret. Sys. v. Parsons* (Franklin County Ct. of Common Pleas) (\$618 million in total recoveries); *Minneapolis Firefighters' Relief Association v. Medtronic, Inc.*, No. 08-cv-06324-PAM-AJB (D. Minn.) (settled -- \$85 million); *In re MGM Mirage Securities Litigation*, Case No. 2:09-cv-01558-GMN-VCF (D. Nev.) (\$75 million settlement); *In re Weatherford Int'l Securities Litigation*, No. 11-cv-01646-LAK-JCF (S.D.N.Y.) (settled -- \$52.5 million); *In re Sunpower Secs. Litig.*, 2011 U.S. Dist. LEXIS 152920 (N.D. Cal.) (\$19.7 million recovery); *In re Am. Serv. Group, Inc.*, 2009 U.S. Dist. LEXIS 28237 (M.D. Tenn.) (\$15.1 million recovery); *In re Terayon Commun. Sys. Sec. Litig.*, 2002 U.S. Dist. LEXIS 5502 (N.D. Cal.) (\$15 million recovery); *In re Nuvelo, Inc. Sec. Litig.*, 668 F. Supp. 2d 1217 (N.D. Cal.) (\$8.9 million recovery); *In re Endocare, Inc. Sec. Litig.*, No. CV02-8429 DT (CTX) (C.D. Cal.) (\$8.95 million recovery); *Greater Pa. Carpenters Pension Fund v. Whitehall Jewellers, Inc.*, 2005 U.S. Dist. LEXIS 12971 (N.D. Ill.) (\$7.5 million recovery); *In re Am. Apparel, Inc. S'holder Litig.*, 2013 U.S. Dist. LEXIS 6977 (C.D. Cal.) (\$4.8 million recovery); *In re Purus Sec. Litig.* No. C-98-20449-JF(RS) (N.D. Cal.) (\$9.95 million recovery).

**SEAN M. HANDLER**, a partner of the Firm and member of Kessler Topaz's Management Committee, currently concentrates his practice on all aspects of new matter development for the Firm including securities, consumer and intellectual property. Mr. Handler earned his Juris Doctor, *cum laude*, from Temple University School of Law, and received his Bachelor of Arts degree from Colby College, graduating *with distinction* in American Studies. Mr. Handler is licensed to practice in Pennsylvania, New Jersey and New York.

As part of his responsibilities, Mr. Handler also oversees the lead plaintiff appointment process in securities class actions for the Firm's clients. In this role, Mr. Handler has achieved numerous noteworthy appointments for clients in reported decisions including *Foley v. Transocean*, 272 F.R.D. 126 (S.D.N.Y. 2011); *In re Bank of America Corp. Sec., Derivative & Employment Ret. Income Sec. Act (ERISA) Litig.*, 258 F.R.D. 260 (S.D.N.Y. 2009) and *Tanne v. Autobytel, Inc.*, 226 F.R.D. 659 (C.D. Cal. 2005) and has argued before federal courts throughout the country.

Mr. Handler was also one of the principal attorneys in *In re Brocade Securities Litigation* (N.D. Cal. 2008), where the team achieved a \$160 million settlement on behalf of the class and two public pension fund class representatives. This settlement is believed to be one of the largest settlements in a securities fraud case in terms of the ratio of settlement amount to actual investor damages.

Mr. Handler also lectures and serves on discussion panels concerning securities litigation matters, most recently appearing at American Conference Institute's National Summit on the Future of Fiduciary Responsibility and Institutional Investor's The Rights & Responsibilities of Institutional Investors.

**GEOFFREY C. JARVIS**, a partner of the Firm, focuses on securities litigation for institutional investors. Mr. Jarvis graduated from Harvard Law School in 1984, and received his undergraduate degree from Cornell University in 1980. He is licensed to practice in Pennsylvania, Delaware, New York and Washington, D.C.

Following law school, Mr. Jarvis served as a staff attorney with the Federal Communications Commission, participating in the development of new regulatory policies for the telecommunications industry.



Mr. Jarvis had a major role in *Oxford Health Plans Securities Litigation*, *DaimlerChrysler Securities Litigation*, and *Tyco Securities Litigation* all of which were among the top ten securities settlements in U.S. history at the time they were resolved, as well as a large number of other securities cases over the past 16 years. He has also been involved in a number of actions before the Delaware Chancery Court, including a Delaware appraisal case that resulted in a favorable decision for the firm's client after trial, and a Delaware appraisal case that was tried in October, argued in 2016, which is still awaiting a final decision.

Mr. Jarvis then became an associate in the Washington office of Rogers & Wells (subsequently merged into Clifford Chance), principally devoted to complex commercial litigation in the fields of antitrust and trade regulations, insurance, intellectual property, contracts and defamation issues, as well as counseling corporate clients in diverse industries on general legal and regulatory compliance matters. He was previously associated with a prominent Philadelphia litigation boutique and had first-chair assignments in cases commenced under the Pennsylvania Whistleblower Act and in major antitrust, First Amendment, civil rights, and complex commercial litigation, including several successful arguments before the U.S. Court of Appeals for the Third Circuit. From 2000 until early 2016, Mr. Jarvis was a Director (Senior Counsel through 2001) at Grant & Eisenhofer, P.A., where he engaged in a number of federal securities, and state fiduciary cases (primarily in Delaware), including several of the largest settlements of the past 15 years. He also was lead trial counsel and/or associate counsel in a number of cases that were tried to a verdict (or are pending final decision).

**JENNIFER L. JOOST**, a partner in the Firm's San Francisco office, focuses her practice on securities litigation. Ms. Joost received her law degree, *cum laude*, from Temple University Beasley School of Law, where she was the Special Projects Editor for the *Temple International and Comparative Law Journal*. Ms. Joost earned her undergraduate degree with honors from Washington University in St. Louis. She is licensed to practice in Pennsylvania and California and is admitted to practice before the United States Courts of Appeals for the Second, Fourth, Ninth, and Eleventh Circuits, and the United States District Courts for the Eastern District of Pennsylvania, the Northern District of California and the Southern District of California.

Ms. Joost has represented institutional investors in numerous securities fraud class actions including *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion); *In re Citigroup Bond Litigation*, No. 08-cv-09522-SHS (S.D.N.Y.) (\$730 million recovery); *David H. Luther, et al., v. Countrywide Financial Corp., et al.*, 2:12-cv-05125 (C.D.Cal. 2012) (settled -- \$500 million); *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery); *Minneapolis Firefighters' Relief Association v. Medtronic, Inc.*, No. 08-cv-06324-PAM-AJB (D. Minn.) (settled -- \$85 million); *In re MGM Mirage Securities Litigation*, Case No. 2:09-cv-01558-GMN-VCF (D. Nev.) (\$75 million settlement); and *In re Weatherford Int'l Securities Litigation*, No. 11-cv-01646-LAK-JCF (S.D.N.Y.) (settled -- \$52.5 million).

**STACEY KAPLAN**, a partner in the Firm's San Francisco office, concentrates her practice on prosecuting securities class actions. Ms. Kaplan received her J.D. from the University of California at Los Angeles School of Law in 2005, and received her Bachelor of Business Administration from the University of Notre Dame in 2002, with majors in Finance and Philosophy. Ms. Kaplan is admitted to the California Bar and is licensed to practice in all California state courts, as well as the United States District Courts for the Northern and Central Districts of California.

During law school, Ms. Kaplan served as a Judicial Extern to the Honorable Terry J. Hatter, Jr., United States District Court, Central District of California. Prior to joining the Firm, Ms. Kaplan was an associate with Robbins Geller Rudman & Dowd LLP in San Diego, California.

**DAVID KESSLER**, a partner of the Firm, manages the Firm's internationally recognized securities department. Mr. Kessler graduated with distinction from the Emory School of Law, after receiving his undergraduate B.S.B.A. degree from American University. Mr. Kessler is licensed to practice law in Pennsylvania, New Jersey and New York, and has been admitted to practice before numerous United States District Courts. Prior to practicing law, Mr. Kessler was a Certified Public Accountant in Pennsylvania.

Mr. Kessler has achieved or assisted in obtaining Court approval for the following outstanding results in federal securities class action cases: *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion); *In re Tyco International, Ltd. Sec. Lit.*, No. 02-1335-B (D.N.H. 2002) (\$3.2 billion settlement); *In re Wachovia Preferred Securities and Bond/Notes Litigation*, No. 09-cv-6351 (RJS) (S.D.N.Y.) (\$627 million recovery); *In re: Lehman Brothers Securities and ERISA Litigation*, Master File No. 09 MD 2017 (LAK) (S.D.N.Y) (settled - \$516,218,000); *In re Satyam Computer Services Ltd. Sec. Litig.*, Master File No. 09 MD 02027 (BSJ) (\$150.5 million settlement); *In re Tenet Healthcare Corp.*, 02-CV-8462 (C.D. Cal. 2002) (settled — \$281.5 million); *In re Initial Public Offering Sec. Litig.*, Master File No. 21 MC 92(SAS) (\$586 million settlement).

Mr. Kessler is also currently serving as one of the Firm's primary litigation partners in the Citigroup, JPMorgan, Hewlett Packard, Pfizer and Morgan Stanley securities litigation matters.

In addition, Mr. Kessler often lectures and writes on securities litigation related topics and has been recognized as "Litigator of the Week" by the American Lawyer magazine for his work in connection with the Lehman Brothers securities litigation matter in December of 2011 and was honored by Benchmark as one of the preeminent plaintiffs practitioners in securities litigation throughout the country. Most recently Mr. Kessler co-authored *The FindWhat.com Case: Acknowledging Policy Considerations When Deciding Issues of Causation in Securities Class Actions* published in Securities Litigation Report.

**JAMES A. MARO, JR.**, a partner of the Firm, concentrates his practice in the Firm's case development department. He also has experience in the areas of consumer protection, ERISA, mergers and acquisitions, and shareholder derivative actions. Mr. Maro received his law degree from the Villanova University School of Law, and received a B.A. in Political Science from the Johns Hopkins University. Mr. Maro is licensed to practice law in Commonwealth of Pennsylvania and New Jersey. He is admitted to practice in the United States Court of Appeals for the Third Circuit and the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey.

**JOSHUA A. MATERESE**, a partner of the Firm, concentrates his practice primarily in the areas of securities litigation and corporate governance. He represents institutional investors and individual clients at all stages of litigation in high-stakes cases involving a wide array of matters, including financial fraud, market manipulation, anti-competitive conduct, and corporate takeovers.

Since joining the firm directly after law school, Josh has helped recover hundreds of millions of dollars for investors harmed by fraud. These matters include: *In re Allergan, Inc. Proxy Violation Securities Litigation* (C.D. Cal.), a case alleging unlawful insider trading by hedge fund billionaire Bill Ackman in connection with a hostile takeover attempt, which settled for \$250 million just weeks before trial; *In re JPMorgan Chase & Co. Securities Litigation* (S.D.N.Y.), a securities fraud class action arising out of misrepresentations and omissions about the trading activities of the so-called "London Whale," which resolved for \$150 million; and, most recently, *Baker v. SeaWorld Entertainment, Inc.* (S.D. Cal.), a securities fraud class action arising out of misrepresentations and omissions about the impact of the documentary Blackfish on SeaWorld's business, which settled for \$65 million days before trial. Josh has also assisted in obtaining favorable settlements for mutual funds and institutional investors in securities

fraud opt-out actions, including in several actions against Brazilian oil giant Petrobras arising from its long-running bribery and kickback scheme.

In addition to his securities litigation practice, Josh has represented plaintiffs in shareholder derivative actions, consumer class actions stemming from violations of the Employees Retirement Income Security Act of 1974 (“ERISA”), and antitrust matters arising out of violations of the Sherman Act.

**MARGARET E. MAZZEO**, a partner of the Firm, focuses her practice on securities litigation. Ms. Mazzeo received her law degree, *cum laude*, from Temple University Beasley School of Law, where she was a Beasley Scholar and a staff editor for the Temple Journal of Science, Technology, and Environmental Law. Ms. Mazzeo graduated with honors from Franklin and Marshall College. She is licensed to practice in Pennsylvania and New Jersey.

Ms. Mazzeo has been involved in several nationwide securities cases on behalf of investors, including *In re Lehman Brothers Securities Litigation*, No. 1:09-md-02017-LAK (S.D.N.Y.) (\$616 million recovery); and *David H. Luther, et al., v. Countrywide Financial Corp., et al.*, 2:12-cv-05125 (C.D. Cal. 2012) (settled -- \$500 million). Ms. Mazzeo also was a member of the trial team who won a jury verdict in favor of investors in the *In re Longtop Financial Technologies Ltd. Securities Litigation*, No. 11-cv-3658 (S.D.N.Y.) action.

**JAMIE M. MCCALL**, a partner of the Firm, concentrates his practice on securities fraud litigation. Prior to joining the Firm, Mr. McCall spent twelve years with the Department of Justice in the U.S. Attorney’s Offices for Miami, Florida and Wilmington, Delaware, where he oversaw complex criminal investigations ranging from securities, tax, bank and wire frauds, to the theft of trade secrets and cybercrime, among others.

Mr. McCall has successfully tried numerous jury trials, including: *United States v. Wilmington Trust Corp., et al.*, a seven-week securities fraud trial, which arose from financial conduct during the Great Recession, and resulted in both the conviction of four bank executives and a \$60 million civil settlement to victim-shareholders; and *United States v. David Matusiewicz, et al.*, a five-week multi-defendant stalking-murder case, which stemmed from the 2013-shootout at the New Castle County Courthouse in Delaware, and resulted in first-in-the-nation convictions for “cyberstalking resulting in death” under the Violence Against Women Act. For his work on both of these cases, Mr. McCall was twice awarded the Director’s Award for Superior Performance by the Department of Justice. Most recently, Mr. McCall served as the section chief for the National Security and Cybercrime Division for the Delaware U.S. Attorney’s Office.

Mr. McCall also spent several years practicing civil law at Morgan, Lewis & Bockius in Philadelphia, where he worked on major, high-stakes litigation matters involving Fortune 250 companies. Mr. McCall began his legal career as a Judge Advocate in the Marine Corps, working primarily as a prosecutor and achieving the rank of Captain. In 2004, Mr. McCall served for nearly five months as the principal legal advisor to 1st Battalion, 5th Marine Regiment in and around Fallujah, Iraq, including during the First Battle of Fallujah.

**JOSEPH H. MELTZER**, a partner of the Firm, concentrates his practice in the areas of ERISA, fiduciary and antitrust complex litigation. Mr. Meltzer received his law degree with honors from Temple University School of Law and is an honors graduate of the University of Maryland. Honors include being named a Pennsylvania Super Lawyer. Mr. Meltzer is licensed to practice in Pennsylvania, New Jersey, New York, the Supreme Court of the United States, and the U.S. Court of Federal Claims.

Mr. Meltzer leads the Firm’s Fiduciary Litigation Group which has excelled in the highly specialized area of prosecuting cases involving breach of fiduciary duty claims. Mr. Meltzer has served as lead or co-lead

counsel in numerous nationwide class actions brought under ERISA. Since founding the Fiduciary Litigation Group, Mr. Meltzer has helped recover hundreds of millions of dollars for clients and class members including some of the largest settlements in ERISA fiduciary breach actions. Mr. Meltzer represented the Board of Trustees of the Buffalo Laborers Security Fund in its action against J.P. Jeanneret Associates which involved a massive, fraudulent scheme orchestrated by Bernard L. Madoff, No. 09-3907 (S.D.N.Y.). Mr. Meltzer also represented an institutional client in a fiduciary breach action against Wells Fargo for large losses sustained while Wachovia Bank and its subsidiaries, including Evergreen Investments, were managing the client's investment portfolio.

As part of his fiduciary litigation practice, Mr. Meltzer was actively involved in actions related to losses sustained in securities lending programs, including *Bd. of Trustees of the AFTRA Ret. Fund v. JPMorgan Chase Bank*, No. 09-00686 (S.D.N.Y.) (\$150 million settlement) and *CompSource Okla. v. BNY Mellon*, No. 08-469 (E.D. OK) (\$280 million settlement). In addition, Mr. Meltzer represented a publicly traded company in a large arbitration against AIG, Inc. related to securities lending losses, *Transatlantic Holdings, Inc. v. AIG*, No. 50-148T0037610 (AAA) (\$75million settlement).

A frequent lecturer on ERISA litigation, Mr. Meltzer is a member of the ABA and has been recognized by numerous courts for his ability and expertise in this complex area of the law. Mr. Meltzer is also a patron member of Public Justice and a member of the Class Action Preservation Committee.

Mr. Meltzer also manages the Firm's Antitrust and Pharmaceutical Pricing Groups. Here, Mr. Meltzer focuses on helping clients that have been injured by anticompetitive and unlawful business practices, including with respect to overcharges related to prescription drug and other health care expenditures. Mr. Meltzer served as co-lead counsel for direct purchasers in the *Flonase Antitrust Litigation*, No.08-3149 (E.D. PA) (\$150 million settlement) and has served as lead or co-lead counsel in numerous nationwide actions. Mr. Meltzer also serves as a special assistant attorney general for the states of Montana, Utah and Alaska. Mr. Meltzer also lectures on issues related to antitrust litigation.

**MATTHEW L. MUSTOKOFF**, a partner of the Firm, is an experienced securities and corporate governance litigator. He has represented clients at the trial and appellate level in numerous high-profile shareholder class actions and other litigations involving a wide array of matters, including financial fraud, market manipulation, mergers and acquisitions, fiduciary mismanagement of investment portfolios, and patent infringement. Mr. Mustokoff received his law degree from the Temple University School of Law, and is a Phi Beta Kappa honors graduate of Wesleyan University. At law school, Mr. Mustokoff was the articles and commentary editor of the *Temple Political and Civil Rights Law Review* and the recipient of the Raynes, McCarty, Binder, Ross and Mundy Graduation Prize for scholarly achievement in the law. He is admitted to practice before the state courts of New York and Pennsylvania, the United States District Courts for the Southern and Eastern Districts of New York, the Eastern District of Pennsylvania and the District of Colorado, and the United States Courts of Appeals for the Eleventh and Federal Circuits.

Mr. Mustokoff is currently prosecuting several nationwide securities cases on behalf of U.S. and overseas institutional investors, including *In re JPMorgan Chase Securities Litigation* (S.D.N.Y.), arising out of the "London Whale" derivatives trading scandal which led to over \$6 billion in losses in the bank's proprietary trading portfolio. He serves as lead counsel for six public pension funds in the multi-district securities litigation against BP in Texas federal court stemming from the 2010 Deepwater Horizon disaster in the Gulf of Mexico. He successfully argued the opposition to BP's motion to dismiss, resulting in a landmark decision sustaining fraud claims under English law for purchasers of BP shares on the London Stock Exchange.

Mr. Mustokoff also played a major role in prosecuting *In re Citigroup Bond Litigation* (S.D.N.Y.), involving allegations that Citigroup concealed its exposure to subprime mortgage debt on the eve of the

2008 financial crisis. The \$730 million settlement marks the second largest recovery under Section 11 of the Securities Act in the history of the statute. Mr. Mustokoff's significant courtroom experience includes serving as one of the lead trial lawyers for shareholders in the only securities fraud class action arising out of the financial crisis to be tried to jury verdict. In addition to his trial practice in federal courts, he has successfully tried cases before the Financial Industry Regulatory Authority (FINRA).

Prior to joining the Firm, Mr. Mustokoff practiced at Weil, Gotshal & Manges LLP in New York, where he represented public companies and financial institutions in SEC enforcement and white collar criminal matters, shareholder litigation and contested bankruptcy proceedings.

**SHARAN NIRMUL**, a partner of the Firm, concentrates his practice in the area of securities, consumer and fiduciary class action and complex commercial litigation, exclusively representing the interests of plaintiffs and particularly, institutional investors.

Sharan represents a number of the world's largest institutional investors in cutting edge, high stakes complex litigation. In addition to his securities litigation practice, he has been at the forefront of developing the Firm's fiduciary litigation practice and has litigated ground-breaking cases in areas of securities lending, foreign exchange, and MBS trustee litigation. Mr. Nirmul was instrumental in developed the underlying theories that propelled the successful recoveries for customers of custodial banks in *Compsource Oklahoma v. BNY Mellon*, a \$280 million recovery for investors in BNY Mellon's securities lending program, and *AFTRA v. JP Morgan*, a \$150 million recovery for investors in JP Morgan's securities lending program. In *Transatlantic Re v. A.I.G.*, Mr. Nirmul recovered \$70 million for Transatlantic Re in a binding arbitration against its former parent, American International Group, arising out of AIG's management of a securities lending program.

Focused on issues of transparency by fiduciary banks to their custodial clients, Mr. Nirmul served as lead counsel in a multi-district litigation against BNY Mellon for the excess spreads it charged to its custodial customers for automated FX services. Litigated over four years, involving 128 depositions and millions of pages of document discovery, and with unprecedented collaboration with the U.S. Department of Justice and the New York Attorney General, the litigation resulted in a settlement for the Bank's custodial customers of \$504 million. Mr. Nirmul also spearheaded litigation against the nation's largest ADR programs, Citibank, BNY Mellon and JP Morgan, which alleged they charged hidden FX fees for conversion of ADR dividends. The litigation resulted in \$100 million in recoveries for ADR holders and significant reforms in the FX practices for ADRs.

Mr. Nirmul has served as lead counsel in several high-profile securities fraud cases, including a \$2.4 billion recovery for Bank of America shareholders arising from BoA's shotgun merger with Merrill Lynch in 2009. More recently, Mr. Nirmul was lead trial counsel in litigation arising from the IPO of social media company Snap, Inc., which has resulted in a \$187.5 million settlement for Snap's investors, claims against Endo Pharmaceuticals, arising from its disclosures concerning the efficacy of its opioid drug, Opana ER, which resulted in a recovery of \$80.5 million for Endo's shareholders, and claims against Ocwen Financial, arising from its mortgage servicing practices and disclosures to investors, which settled on the eve of trial for \$56 million. Mr. Nirmul currently serves as lead trial counsel in pending securities class actions involving General Electric, Kraft-Heinz, and the stunning collapse of Luckin Coffee Inc., following disclosure of a massive accounting fraud just ten months after its IPO. He also currently serves on the Executive Committee for the multi-district litigation involving the Chicago Board Options Exchange and the manipulation of its key product, the Cboe Volatility Index.

Mr. Nirmul received his law degree from The George Washington University National Law Center and undergraduate degree from Cornell University. He was born and grew up in Durban, South Africa.



**JUSTIN O. RELIFORD**, a partner of the Firm, concentrates his practice on mergers and acquisition litigation and shareholder derivative litigation. Mr. Reliford graduated from the University of Pennsylvania Law School in 2007 and received his B.A. from Williams College in 2003, majoring in Psychology with a concentration in Leadership Studies. Mr. Reliford is a member of the Pennsylvania and New Jersey bars, and he is admitted to practice in the Third Circuit Court of Appeals, the Eastern District of Pennsylvania, and the District of New Jersey.

Mr. Reliford has extensive experience representing clients in connection with nationwide class and collective actions. Most notably, Mr. Reliford, was part of the trial team *In re Dole Food Co., Inc. Stockholder Litig.*, C.A. No. 8703-VCL, that won a trial verdict in favor of Dole stockholders for \$148 million. Mr. Reliford also obtained a favorable recovery for an institutional investor in a securities class action *In re Allergan, Inc. Proxy Violation Securities Litigation*, No. 8:14-cv-02004 (C.D. Cal. 2018), which challenged a brazen insider trading scheme by Valeant Pharmaceuticals to tip Bill Ackman's hedge fund Pershing Square Capital that it intended to launch a hostile takeover attempt to buy rival pharma company Allergan. After three years, the case settled weeks before trial for \$250 million. He also litigated *In re GFI Group, Inc. Stockholder Litig.* Consol. C.A. No. 10136-VCL (Del. Ch.) (\$10.75 million cash settlement); *In re Globe Specialty Metals, Inc. Stockholders Litig.*, Consol. C.A. No. 10865-VCG (Del. Ch.) (\$32.5 million settlement); and *In re Harleysville Mutual* (CCP, Phila. Cnty. 2012) (an expedited merger litigation case challenging Harleysville's agreement to sell the company to Nationwide Insurance Company, which lead to a \$26 million cash payment to policyholders). Prior to joining the Firm, Mr. Reliford was an associate in the labor and employment practice group of Morgan Lewis & Bockius, LLP. There, Mr. Reliford concentrated his practice on employee benefits, fiduciary, and workplace discrimination litigation.

**LEE D. RUDY**, a partner of the Firm, manages the Firm's mergers and acquisition and shareholder derivative litigation. Mr. Rudy received his law degree from Fordham University, and his undergraduate degree, *cum laude*, from the University of Pennsylvania. Mr. Rudy is licensed to practice in Pennsylvania and New York.

Representing both institutional and individual shareholders in these actions, he has helped cause significant monetary and corporate governance improvements for those companies and their shareholders. Mr. Rudy also co-chairs the Firm's qui tam and whistleblower practices, where he represents whistleblowers before administrative agencies and in court. Mr. Rudy regularly practices in the Delaware Court of Chancery, where he served as co-lead trial counsel in the landmark case of *In re S. Peru Copper Corp. S'holder Derivative Litig.*, C.A. No. 961-CS, a \$2 billion trial verdict against Southern Peru's majority shareholder. He previously served as lead counsel in dozens of high profile derivative actions relating to the "backdating" of stock options. Mr. Rudy also obtained a favorable recovery for an institutional investor in a securities class action *In re Allergan, Inc. Proxy Violation Securities Litigation*, No. 8:14-cv-02004 (C.D. Cal. 2018), which challenged a brazen insider trading scheme by Valeant Pharmaceuticals to tip Bill Ackman's hedge fund Pershing Square Capital that it intended to launch a hostile takeover attempt to buy rival pharma company Allergan. After three years, the case settled weeks before trial for \$250 million. In addition, Mr. Rudy represented stockholders in obtaining substantial recoveries in numerous shareholder derivative and class actions, many of which resulted in significant monetary relief, including: *In re Facebook, Inc. Class C Reclassification Litigation*, C.A. No. 12286-VCL (Del. Ch. Sept. 25, 2017) (KTMC challenged a proposed reclassification of Facebook's stock structure as harming the company's public stockholders. Facebook abandoned the proposal just one business day before trial was to commence; granting Plaintiffs complete victory); *City of Daytona Beach Police and Fire Pension Fund v. ExamWorks Group, Inc., et al.*, C.A. No. 12481-VCL (Del. Ch. Sept. 12, 2017) (\$86.5 million settlement relating to the acquisition of ExamWorks Group, Inc. by private equity firm Leonard Green & Partners, LP.); *Quinn v. Knight*, No. 3:16-cv-610 (E.D. Va. Mar. 16, 2017) (class action settling just ten days before trial, with stockholders receiving an additional \$32 million in merger consideration); *In re MPG Office Trust, Inc. Preferred Shareholder*

*Litigation*, Cons. Case No. 24-C-13-004097 (Md. Cir. Oct. 20, 2015) (Kessler Topaz negotiated a settlement where MPG preferred stockholders received a dividend of \$2.25 per share, worth approximately \$21 million); *In re Harleysville Mutual* (CCP, Phila. Cnty. 2012) (an expedited merger litigation case challenging Harleysville's agreement to sell the company to Nationwide Insurance Company, which led to a \$26 million cash payment to policyholders); and *In re Amicas, Inc. Shareholder Litigation*, 10-0174-BLS2 (Suffolk County, MA 2010) (Kessler Topaz prevailed in securing a preliminary injunction against the deal, which allowed a superior bidder to purchase the Company for an additional \$0.70 per share (\$26 million)).

Prior to civil practice, Mr. Rudy served for several years as an Assistant District Attorney in the Manhattan (NY) District Attorney's Office, and as an Assistant United States Attorney in the US Attorney's Office (DNJ).

**RICHARD A. RUSSO, JR.**, a partner of the Firm, focuses his practice on securities litigation. Mr. Russo received his law degree from the Temple University Beasley School of Law, where he graduated *cum laude* and was a member of the Temple Law Review, and graduated *cum laude* from Villanova University, where he received a Bachelor of Science degree in Business Administration. Mr. Russo is licensed to practice in Pennsylvania and New Jersey.

Mr. Russo has represented individual and institutional investors in obtaining significant recoveries in numerous class actions arising under the federal securities laws, including *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion), *In re Citigroup Bond Litigation*, No. 08-cv-09522-SHS (S.D.N.Y.) (\$730 million recovery), *In re Lehman Brothers Securities Litigation*, No. 1:09-md-02017-LAK (S.D.N.Y.) (\$616 million recovery).

**MARC A. TOPAZ**, a partner of the Firm, oversees the Firm's derivative, transactional and case development departments. Mr. Topaz received his law degree from Temple University School of Law, where he was an editor of the *Temple Law Review* and a member of the Moot Court Honor Society. He also received his Master of Law (L.L.M.) in taxation from the New York University School of Law, where he served as an editor of the *New York University Tax Law Review*. He is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

Mr. Topaz has been heavily involved in all of the Firm's cases related to the subprime mortgage crisis, including cases seeking recovery on behalf of shareholders in companies affected by the subprime crisis, as well as cases seeking recovery for 401K plan participants that have suffered losses in their retirement plans. Mr. Topaz has also played an instrumental role in the Firm's option backdating litigation. These cases, which are pled mainly as derivative claims or as securities law violations, have served as an important vehicle both for re-pricing erroneously issued options and providing for meaningful corporate governance changes. In his capacity as the Firm's department leader of case initiation and development, Mr. Topaz has been involved in many of the Firm's most prominent cases, including *In re Initial Public Offering Sec. Litig.*, Master File No. 21 MC 92(SAS) (S.D.N.Y. Dec. 12, 2002); *Wanstrath v. Doctor R. Crants, et al.*, No. 99-1719-111 (Tenn. Chan. Ct., 20th Judicial District, 1999); *In re Tyco International, Ltd. Sec. Lit.*, No. 02-1335-B (D.N.H. 2002) (settled — \$3.2 billion); and virtually all of the 80 options backdating cases in which the Firm is serving as Lead or Co-Lead Counsel. Mr. Topaz has played an important role in the Firm's focus on remedying breaches of fiduciary duties by corporate officers and directors and improving corporate governance practices of corporate defendants.



**MELISSA L. TROUTNER**, a partner of the Firm, concentrates her practice on new matter development with a specific focus on analyzing securities class action lawsuits, antitrust actions, and complex consumer actions. Ms. Troutner is also a member of the Firm's Consumer Protection group. Ms. Troutner received her law degree, Order of the Coif, *cum laude*, from the University of Pennsylvania Law School in 2002 and her Bachelor of Arts, Phi Beta Kappa, *magna cum laude*, from Syracuse University in 1999. Ms. Troutner is licensed to practice law in Pennsylvania, New York and Delaware.

Prior to joining Kessler Topaz, Ms. Troutner practiced as a litigator with several large defense firms, focusing on complex commercial, products liability and patent litigation, and clerked for the Honorable Stanley S. Brotman, United States District Judge for the District of New Jersey.

**JOHNSTON de F. WHITMAN, JR.**, a partner of the Firm, focuses his practice on securities litigation, primarily in federal court. Mr. Whitman received his law degree from Fordham University School of Law, where he was a member of the Fordham International Law Journal, and graduated *cum laude* from Colgate University. He is licensed to practice in Pennsylvania and New York., and is admitted to practice in courts around the country, including the United States Courts of Appeal for the Second, Third, and Fourth Circuits.

Mr. Whitman has represented institutional investors in obtaining substantial recoveries in numerous securities fraud class actions, including: (i) *In re Bank of America Securities Litigation*, a case which represents the sixth largest recovery for shareholders under the federal securities laws (settled --\$2.425 billion); (ii) *In re Royal Ahold Sec. Litig.*, No. 03-md-01539 (D. Md. 2003) (\$1.1 billion settlement); (iii) *In re DaimlerChrysler AG Sec. Litig.*, No. 00-0993 (D. Del. 2000) (\$300 million settlement); (iv) *In re Dollar General, Inc. Sec. Litig.*, No. 01-cv-0388 (M.D. Tenn. 2001) ( \$162 million settlement); and (v) *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD ("London Whale Litigation") (\$150 million recovery). Mr. Whitman has also obtained favorable recoveries for institutional investors pursuing direct securities fraud claims, including cases against Merck & Co., Inc., Qwest Communications International, Inc. and Merrill Lynch & Co., Inc. In addition, Mr. Whitman represented a publicly traded company in a large arbitration against AIG, Inc. related to securities lending losses, *Transatlantic Holdings, Inc. v. AIG*, No. 50-148T0037610 (AAA) (\$75million settlement).

**ROBIN WINCHESTER**, a partner of the Firm, concentrated her practice in the areas of securities litigation and lead plaintiff litigation, when she joined the Firm. Presently, Ms. Winchester concentrates her practice in the area of shareholder derivative actions. Ms. Winchester earned her Juris Doctor degree from Villanova University School of Law, and received her Bachelor of Science degree in Finance from St. Joseph's University. Ms. Winchester is licensed to practice law in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Ms. Winchester served as a law clerk to the Honorable Robert F. Kelly in the United States District Court for the Eastern District of Pennsylvania.

Ms. Winchester has served as lead counsel in numerous high-profile derivative actions relating to the backdating of stock options, including *In re Eclipsys Corp. Derivative Litigation*, Case No. 07-80611-Civ-MIDDLEBROOKS (S.D. Fla.); *In re Juniper Derivative Actions*, Case No. 5:06-cv-3396-JW (N.D. Cal.); *In re McAfee Derivative Litigation*, Master File No. 5:06-cv-03484-JF (N.D. Cal.); *In re Quest Software, Inc. Derivative Litigation*, Consolidated Case No. 06CC00115 (Cal. Super. Ct., Orange County); and *In re Sigma Designs, Inc. Derivative Litigation*, Master File No. C-06-4460-RMW (N.D. Cal.). Settlements of these, and similar, actions have resulted in significant monetary returns and corporate governance improvements for those companies, which, in turn, greatly benefits their public shareholders.

**ERIC L. ZAGAR**, a partner of the Firm, concentrates his practice in the area of shareholder derivative litigation. Mr. Zagar received his law degree from the University of Michigan Law School, *cum laude*, where he was an Associate Editor of the *Michigan Law Review*, and his undergraduate degree from

Washington University in St. Louis. He is admitted to practice in Pennsylvania, California and New York. Mr. Zagar previously served as a law clerk to Justice Sandra Schultz Newman of the Pennsylvania Supreme Court.

Since 2001 Mr. Zagar has served as Lead or Co-Lead counsel in hundreds of derivative actions in courts throughout the nation. He was a member of the trial team in the landmark case of *In re S. Peru Copper Corp. S'holder Derivative Litig.*, C.A. No. 961-CS, a \$2 billion trial verdict against Southern Peru's majority shareholder. Mr. Zagar has successfully achieved significant monetary and corporate governance relief for the benefit of shareholders, and has extensive experience litigating matters involving Special Litigation Committees.

**TERENCE S. ZIEGLER**, a partner of the Firm, concentrates a significant percentage of his practice to the investigation and prosecution of pharmaceutical antitrust actions, medical device litigation, and related anticompetitive and unfair business practice claims. Mr. Ziegler received his law degree from the Tulane University School of Law and received his undergraduate degree from Loyola University. Mr. Ziegler is licensed to practice law in Pennsylvania and the State of Louisiana, and has been admitted to practice before several courts including the United States Court of Appeals for the Third Circuit.

Mr. Ziegler has represented investors, consumers and other clients in obtaining substantial recoveries, including: *In re Flonase Antitrust Litigation*; *In re Wellbutrin SR Antitrust Litigation*; *In re Modafinil Antitrust Litigation*; *In re Guidant Corp. Implantable Defibrillators Products Liability Litigation* (against manufacturers of defective medical devices — pacemakers/implantable defibrillators — seeking costs of removal and replacement); and *In re Actiq Sales and Marketing Practices Litigation* (regarding drug manufacturer's unlawful marketing, sales and promotional activities for non-indicated and unapproved uses).

**ANDREW L. ZIVITZ**, a partner of the Firm, received his law degree from Duke University School of Law, and received a Bachelor of Arts degree, with distinction, from the University of Michigan, Ann Arbor. Mr. Zivitz is licensed to practice in Pennsylvania and New Jersey.

Drawing on two decades of litigation experience, Mr. Zivitz concentrates his practice in the area of securities litigation and is currently litigating several of the largest federal securities fraud class actions in the U.S. Andy is skilled in all aspects of complex litigation, from developing and implementing strategies, to conducting merits and expert discovery, to negotiating resolutions. He has represented dozens of major institutional investors in securities class actions and has helped the firm recover more than \$1 billion for damaged clients and class members in numerous securities fraud matters in which Kessler Topaz was Lead or Co-Lead Counsel, including *David H. Luther, et al., v. Countrywide Financial Corp., et al.*, 2:12-cv-05125 (C.D.Cal. 2012) (settled -- \$500 million); *In re Pfizer Sec. Litig.*, 1:04-cv-09866 (S.D.N.Y. 2004) (settled -- \$486 million); *In re Tenet Healthcare Corp.*, 02-CV-8462 (C.D. Cal. 2002) (settled — \$281.5 million); *In re JPMorgan Chase & Co. Securities Litigation*, No. 12-3852-GBD (“London Whale Litigation”) (\$150 million recovery); *In re Computer Associates Sec. Litig.*, No. 02-CV-122 6 (E.D.N.Y. 2002) (settled — \$150 million); *In re Hewlett-Packard Sec. Litig.*, 12-cv-05980 (N.D.Cal. 2012) (settled - - \$100 million); and *In re Minneapolis Firefighters' Relief Association v. Medtronic, Inc.*, No. 08-cv-06324-PAM-AJB (D. Minn.) (settled -- \$ 85 million).

Andy's extensive courtroom experience serves his clients well in trial situations, as well as pre-trial proceedings and settlement negotiations. He served as one of the lead plaintiffs' attorneys in the only securities fraud class action arising out of the financial crisis to be tried to a jury verdict, has handled a Daubert trial in the U.S. District Court for the Southern District of New York, and successfully argued back-to-back appeals before the Ninth Circuit Court of Appeals. Before joining Kessler Topaz, Andy worked at the international law firm Drinker Biddle and Reath, primarily representing defendants in large,

complex litigation. His experience on the defense side of the bar provides a unique perspective in prosecuting complex plaintiffs' litigation.

## COUNSEL

**JENNIFER L. ENCK**, Counsel to the Firm, concentrates her practice in the area of securities litigation and settlement matters. Ms. Enck received her law degree, *cum laude*, from Syracuse University College of Law, where she was a member of the Syracuse Journal of International Law and Commerce, and her undergraduate degree in International Politics/International Studies from The Pennsylvania State University. Ms. Enck also received a Master's degree in International Relations from Syracuse University's Maxwell School of Citizenship and Public Affairs. She is licensed to practice in Pennsylvania and has been admitted to practice before the United States Court of Appeals for the Third and Eleventh Circuits and the United States District Court for the Eastern District of Pennsylvania.

Ms. Enck has been involved in documenting and obtaining the required court approval for many of the firm's largest and most complex securities class action settlements, including *In re Bank of America Corp. Securities, Derivative, and Employee Retirement Income Security Act (ERISA) Litigation*, No. 09 MDL 2058 (S.D.N.Y.) (settled -- \$2.425 billion); *David H. Luther, et al., v. Countrywide Financial Corp., et al.*, 2:12-cv-05125 (C.D. Cal. 2012) (settled -- \$500 million); *In re: Lehman Brothers Securities and ERISA Litigation*, Master File No. 09 MD 2017 (LAK) (S.D.N.Y.) (settled - \$516,218,000); and *In re Satyam Computer Services Ltd. Sec. Litig.*, Master File No. 09 MD 02027 (BSJ) (\$150.5 million settlement).

**LISA LAMB PORT**, Counsel to the Firm, concentrates her practice on consumer, antitrust, and securities fraud class actions. Ms. Lamb Port received her law degree, Order of the Coif, summa cum laude, from the Villanova University School of Law in 2003 and her Bachelor of Arts, cum laude, from Princeton University in 2000. Ms. Lamb Port is licensed to practice law in the Commonwealth Pennsylvania.

Prior to joining Kessler Topaz, Ms. Lamb Port was a partner at another class action firm, where she represented institutional and individual investors in securities fraud, breach of fiduciary duty, and shareholder derivative cases, as well as in litigation resulting from mergers and acquisitions.

**DONNA SIEGEL MOFFA**, Counsel to the Firm, concentrates her practice in the area of consumer protection litigation. Ms. Siegel Moffa received her law degree, with honors, from Georgetown University Law Center in May 1982 and a master's degree in Public Administration from Rutgers, the State University of New Jersey, Graduate School-Camden in January 2017. She received her undergraduate degree, *cum laude*, from Mount Holyoke College in Massachusetts. Ms. Siegel Moffa is admitted to practice before the Third Circuit Court of Appeals, the United States Courts for the District of New Jersey and the District of Columbia, as well as the Supreme Court of New Jersey and the District of Columbia Court of Appeals.

Prior to joining the Firm, Ms. Siegel Moffa was a member of the law firm of Trujillo, Rodriguez & Richards, LLC, where she litigated, and served as co-lead counsel, in complex class actions arising under federal and state consumer protection statutes, lending laws and laws governing contracts and employee compensation. Prior to entering private practice, Ms. Siegel Moffa worked at both the Federal Energy Regulatory Commission (FERC) and the Federal Trade Commission (FTC). At the FTC, she prosecuted cases involving allegations of deceptive and unsubstantiated advertising. In addition, both at FERC and the FTC, Ms. Siegel Moffa was involved in a wide range of administrative and regulatory issues including labeling and marketing claims, compliance, FOIA and disclosure obligations, employment matters, licensing and rulemaking proceedings.

Ms. Siegel Moffa served as co-lead counsel for the class in *Robinson v. Thorn Americas, Inc.*, L-03697-94 (Law Div. 1995), a case that resulted in a significant monetary recovery for consumers and changes to rent-to-own contracts in New Jersey. Ms. Siegel Moffa was also counsel in *Muhammad v. County Bank of Rehoboth Beach, Delaware*, 189 N.J. 1 (2006), U.S. Sup. Ct. cert. denied, 127 S. Ct. 2032(2007), in which the New Jersey Supreme Court struck a class action ban in a consumer arbitration contract. She has served as class counsel representing consumers pressing TILA claims, e.g. *Cannon v. Cherry Hill Toyota, Inc.*, 184 F.R.D. 540 (D.N.J. 1999), and *Dal Ponte v. Am. Mortg. Express Corp.*, CV- 04-2152 (D.N.J. 2006), and has pursued a wide variety of claims that impact consumers and individuals including those involving predatory and sub-prime lending, mandatory arbitration clauses, price fixing, improper medical billing practices, the marketing of light cigarettes and employee compensation. Ms. Siegel Moffa's practice has involved significant appellate work representing individuals, classes, and non-profit organizations participating as amicus curiae, such as the National Consumer Law Center and the AARP. In addition, Ms. Siegel Moffa has regularly addressed consumer protection and litigation issues in presentations to organizations and professional associations.

**JONATHAN F. NEUMANN**, Counsel to the Firm, concentrates his practice in the area of securities litigation and fiduciary matters. Mr. Neumann earned his Juris Doctor degree from Temple University Beasley School of Law, where he was an editor for the Temple International and Comparative Law Journal and a member of the Moot Court Honor Society. Mr. Neumann earned his undergraduate degree from the University of Delaware. Mr. Neumann is licensed to practice in Pennsylvania and New York. Prior to joining the Firm, Mr. Neumann served as a law clerk to the Honorable Douglas E. Arpert of the United States District Court for the District of New Jersey.

Mr. Neumann has represented institutional investors in obtaining substantial recoveries in numerous cases, including *In re Bank of New York Mellon Corp. Foreign Exchange Transactions Litig.*, No. 12-md-02335 (S.D.N.Y.) (\$335 million settlement); *Policemen's Annuity and Benefit Fund of the City of Chicago, et al. v. Bank of America, NA, et al.*, No. 12-cv-02865 (S.D.N.Y.) (\$69 million settlement); *In re NII Holdings Sec. Litig.*, No. 14-cv-227 (E.D. Va.) (settled \$41.5 million).

**MICHELLE M. NEWCOMER**, Counsel to the Firm, concentrates her practice in the area of securities litigation. Ms. Newcomer earned her law degree from Villanova University School of Law in 2005, and earned her B.B.A. in Finance and Art History from Loyola University Maryland in 2002. Ms. Newcomer is licensed to practice law in the Commonwealth of Pennsylvania and the State of New Jersey and has been admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Second, Ninth and Tenth Circuits, and the United States District Court for the Districts of New Jersey and Colorado.

Ms. Newcomer has represented shareholders in numerous securities class actions in which the Firm has served as Lead or Co-Lead Counsel, through all aspects of pre-trial proceedings, including complaint drafting, litigating motions to dismiss and for summary judgment, conducting document, deposition and expert discovery, and appeal. Ms. Newcomer also has been involved in the Firm's securities class action trials, including most recently serving as part of the trial team in the Longtop Financial Technologies securities class action trial that resulted in a jury verdict on liability and damages in favor of investors. Ms. Newcomer began her legal career with the Firm in 2005. Prior to joining the Firm, she was a summer law clerk for the Hon. John T.J. Kelly, Jr. of the Pennsylvania Superior Court.

Ms. Newcomer's representative cases include: *In re Longtop Financial Technologies Ltd. Sec. Litig.* No. 11-cv-3658 (SAS) (S.D.N.Y.) – obtained on behalf of investors a jury verdict on liability and damages against the company's former CFO; *re Lehman Brothers Securities Litigation*, No. 1:09-md-02017-LAK (S.D.N.Y.) (\$616 million recovery); *In re Pfizer, Inc. Sec. Litig.*, No. 04-9866-LTS (S.D.N.Y.) – represents three of the court-appointed class representatives, and serves as additional counsel for the class in securities

fraud class action based on alleged misrepresentations and omissions concerning cardiovascular risks associated with Celebrex® and Bextra®, which survived Defendants' motion for summary judgment; *Connecticut Retirement Plans & Trust Funds et al. v. BP p.l.c. et al.* (S.D. Tex.) – represents several public pension funds in direct action asserting claims under Section 10(b) and Rule 10b-5, for purchases of BP ADRs on the NYSE, and under English law for purchasers of BP ordinary shares on the London Stock Exchange, which recently survived Defendants' motion to dismiss; litigation is ongoing.

## ASSOCIATES & STAFF ATTORNEYS

**CHIOMA C. ABARA**, a staff attorney of the Firm, concentrates her practice in the area of corporate governance. Ms. Abara received her J.D. from Widener University School of Law, Harrisburg in 2005, and her B.S. in Computer & Information Sciences from Temple University in 2002. Ms. Abara is licensed to practice in Pennsylvania New Jersey and before the United States Patent & Trademark Office. Prior to joining the Kessler Topaz, Ms. Abara worked in pharmaceutical litigation.

**SCOTT B. ADAMS**, a staff attorney of the Firm, concentrates his practice in the areas of securities and consumer protection. Mr. Adams earned his Juris Doctor degree from Drexel University Thomas R. Kline School of Law in Philadelphia, Pennsylvania and his undergraduate degree from Saint Vincent College.

**ASHER S. ALAVI**, an associate of the Firm, concentrates his practice in the area of qui tam litigation. Mr. Alavi received his law degree, cum laude, from Boston College Law School in 2011 where he served as Note Editor for the Boston College Journal of Law & Social Justice. He received his undergraduate degree in Communication Studies and Political Science from Northwestern University in 2007. Mr. Alavi is licensed to practice law in Pennsylvania and Maryland. Prior to joining Kessler Topaz, Mr. Alavi was an associate with Pietragallo Gordon Alfano Bosick & Raspanti LLP in Philadelphia, where he worked on a variety of whistleblower and healthcare matters.

**SARA A. ALSALEH**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Alsaleh earned her Juris Doctor degree from Widener University School of Law in Wilmington, Delaware, and her undergraduate degree from Pennsylvania State University. Ms. Alsaleh is admitted to practice in Pennsylvania and New Jersey.

During law school, Ms. Alsaleh interned at the U.S. Food and Drug Administration and the Delaware Department of Justice in the Consumer Protection & Fraud Division where she was heavily involved in protecting consumers within a wide variety of subject areas. Prior to joining the Firm, Ms. Alsaleh practiced in the areas of pharmaceutical & health law litigation, and was an Associate at a general practice firm in Bensalem, Pennsylvania.

**DANIEL M. BAKER**, an associate of the Firm, concentrates his practice in the areas of merger and acquisition litigation and shareholder derivative actions. Through his practice, Mr. Baker helps institutional and individual shareholders obtain significant financial recoveries and corporate governance reforms.

While in law school, Mr. Baker interned at the Securities Exchange Commission and the Financial Industry Regulatory Authority. Mr. Baker was also a member of the Villanova Law Review, and served as Online Articles Editor.

**LaMARLON R. BARKSDALE**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Barksdale received his law degree from Temple University, James E. Beasley School of Law in 2005 and his undergraduate degree, cum laude, from the University of Delaware in 2001.



He is licensed to practice law in Pennsylvania and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

Prior to joining Kessler Topaz, Mr. Barksdale worked in complex pharmaceutical litigation, commercial litigation, criminal law and bankruptcy law.

**ADRIENNE BELL**, an associate of the Firm, focuses her practice on case development and client relations. Ms. Bell received her law degree from Brooklyn Law School and her undergraduate degree in Music Theory and Composition from New York University, where she graduated *magna cum laude*. Ms. Bell is licensed to practice in Pennsylvania. Prior to joining the Firm, Ms. Bell practiced in the areas of entertainment law and commercial litigation.

**MATTHEW BENEDICT**, an associate of the Firm, concentrates his practice in the area of mergers and acquisitions litigation and shareholder derivative litigation. Mr. Benedict earned his law degree from Villanova University School of Law and his undergraduate degree from Haverford College. He is licensed to practice law in Pennsylvania and New Jersey.

**ELIZABETH WATSON CALHOUN**, a staff attorney of the Firm, focuses on securities litigation. She has represented investors in major securities fraud and has also represented shareholders in derivative and direct shareholder litigation. Ms. Calhoun received her law degree from Georgetown University Law Center (*cum laude*), where she served as Executive Editor of the Georgetown Journal of Gender and the Law. She received her undergraduate degree in Political Science from the University of Maine, Orono (*with high distinction*). Ms. Calhoun is admitted to practice before the state court of Pennsylvania and the U.S. District Court for the Eastern District of Pennsylvania. Prior to joining the Firm, Ms. Calhoun was employed with the Wilmington, Delaware law firm of Grant & Eisenhofer, P.A.

**KEVIN E.T. CUNNINGHAM, JR.** an associate of the Firm, and focuses his practice in securities litigation. Kevin is a graduate of Temple University Beasley School of Law. Prior to joining the Firm, Kevin served as a law clerk for the Hon. Judge Paula Dow of the New Jersey Superior Court, Burlington County - Chancery Division. Kevin also served as a law clerk to the Hon. Brian A. Jackson of the United States District Court for the Middle District of Louisiana. Kevin is licensed to practice in Pennsylvania.

**QUIANA CHAPMAN-SMITH**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Temple University Beasley School of Law in Pennsylvania and her Bachelor of Science in Management and Organizations from The Pennsylvania State University. Ms. Chapman-Smith is licensed to practice law in the Commonwealth of Pennsylvania. Prior to joining Kessler Topaz, she worked in pharmaceutical litigation.

**ELIZABETH DRAGOVICH**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Dragovich received her law degree from the University of Pennsylvania Law School in 2002, and her undergraduate degree from Carnegie Mellon University in 1999. Ms. Dragovich is licensed to practice law in Pennsylvania. Prior to joining Kessler Topaz, Elizabeth was a staff attorney with the Wilmington, Delaware law firm of Grant & Eisenhofer, P.A.

**STEPHEN J. DUSKIN**, a staff attorney of the Firm, concentrates his practice in the area of antitrust litigation. Mr. Duskin received his law degree from Rutgers School of Law at Camden in 1985, and his undergraduate degree in Mathematics from the University of Rochester in 1976. Mr. Duskin is licensed to practice law in Pennsylvania.



Prior to joining Kessler Topaz, Mr. Duskin practiced corporate and securities law in private practice and in corporate legal departments, and also worked for the U.S. Securities and Exchange Commission and the Resolution Trust Corporation.

**DONNA EAGLESON**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation discovery matters. She received her law degree from the University of Dayton School of Law in Dayton, Ohio. Ms. Eagleson is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Ms. Eagleson worked as an attorney in the law enforcement field, and practiced insurance defense law with the Philadelphia firm Margolis Edelstein.

**PATRICK J. EDDIS**, a staff attorney of the Firm, concentrates his practice in the area of corporate governance litigation. Mr. Eddis received his law degree from Temple University School of Law in 2002 and his undergraduate degree from the University of Vermont in 1995. Mr. Eddis is licensed to practice in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Eddis was a Deputy Public Defender with the Bucks County Office of the Public Defender. Before that, Mr. Eddis was an attorney with Pepper Hamilton LLP, where he worked on various pharmaceutical and commercial matters.

**KIMBERLY V. GAMBLE**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Widener University, School of Law in Wilmington, DE. While in law school, she was a CASA/Youth Advocates volunteer and had internships with the Delaware County Public Defender's Office as well as The Honorable Judge Ann Osborne in Media, Pennsylvania. She received her Bachelor of Arts degree in Sociology from The Pennsylvania State University. Ms. Gamble is licensed to practice law in the Commonwealth of Pennsylvania. Prior to joining Kessler Topaz, she worked in pharmaceutical litigation.

**GRANT D. GOODHART**, an associate of the Firm, concentrates his practice in the areas of mergers and acquisitions litigation and stockholder derivative actions. Mr. Goodhart received his law degree, cum laude, from Temple University Beasley School of Law and his undergraduate degree, magna cum laude, from the University of Pittsburgh. He is licensed to practice law in Pennsylvania and New Jersey.

**TYLER S. GRADEN**, an associate of the Firm, focuses his practice on consumer protection and whistleblower litigation. Mr. Graden received his Juris Doctor degree from Temple Law School and his undergraduate degrees in Economics and International Relations from American University. Mr. Graden is licensed to practice law in Pennsylvania and New Jersey and has been admitted to practice before numerous United States District Courts.

Prior to joining Kessler Topaz, Mr. Graden practiced with a Philadelphia law firm where he litigated various complex commercial matters, and also served as an investigator with the Chicago District Office of the Equal Employment Opportunity Commission.

Mr. Graden has represented individuals and institutional investors in obtaining substantial recoveries in numerous class actions, including *Board of Trustees of the Buffalo Laborers Security Fund v. J.P. Jeanneret Associates, Inc.*, Case No. 09 Civ. 8362 (S.D.N.Y.) (settled - \$219 million); *Board of Trustees of the AFTRA Retirement Fund v. JPMorgan Chase Bank, NA.*, Case No. 09 Civ. 0686 (S.D.N.Y.) (settled - \$150 million); *In re Merck & Co., Inc. Vytarin ERISA Litig.*, Case No. 09 Civ. 1974 (D.N.J.) (settled - \$10.4 million); and *In re 2008 Fannie Mae ERISA Litigation*, Case No. 09-cv-1350 (S.D.N.Y.) (settled - \$9 million). Mr. Graden has also obtained favorable recoveries on behalf of multiple, nationwide classes of borrowers whose insurance was force-placed by their mortgage servicers.

**STACEY A. GREENSPAN**, an associate of the Firm, concentrates her practice in the areas of merger and acquisition litigation and shareholder derivative actions. Ms. Greenspan received her law degree from Temple University in 2007 and her undergraduate degree from the University of Michigan in 2001, with honors. Ms. Greenspan is licensed to practice in Pennsylvania.

Prior to joining Kessler Topaz, Ms. Greenspan served as an Assistant Public Defender in Philadelphia for almost a decade, litigating hundreds of trials to verdict. Ms. Greenspan also worked at the Trial and Capital Habeas Units of the Federal Community Defender Office of the Eastern District of Pennsylvania throughout law school. At Kessler Topaz, she has assisted the Firm in obtaining a substantial recovery in a large class action on behalf of an institutional client in *City of Daytona Beach Police and Fire Pension Fund v. ExamWorks Group, Inc., et al.*, C.A. No. 12481-VCL (Del. Ch. Sept. 12, 2017) (\$86.5 million settlement relating to the acquisition of ExamWorks Group, Inc. by private equity firm Leonard Green & Partners, LP.). In addition, Ms. Greenspan served as co-lead counsel in *In re Ebix, Inc. S'holder Litig.*, Consol. C.A. No. 8526-VCS (Del. Ch. Apr. 5, 2019), a case that challenged an improper executive bonus worth \$825 million for the company's CEO. After five years of hard fought litigation and a trial the case settled for corporate governance measures and an amendment to the CEO's stock appreciation rights agreement.

**KEITH S. GREENWALD**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Greenwald received his law degree from Temple University, Beasley School of Law in 2013 and his undergraduate degree in History, summa cum laude, from Temple University in 2004. Mr. Greenwald is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Greenwald was a contract attorney on various projects in Philadelphia and was at the International Criminal Tribunal for the Former Yugoslavia, at The Hague in The Netherlands, working in international criminal law.

**JOHN J. GROSSI**, a staff attorney at the Firm, focuses his practice on securities litigation. Mr. Grossi received his law degree from Widener University Delaware School of Law and graduated *cum laude* from Curry College. He is licensed to practice law in Pennsylvania. Prior to joining the Firm as a Staff Attorney, Mr. Grossi was employed in the Firm's internship program as a Summer Law Clerk, where he was also a member of the securities fraud department.

During his time as a Summer Law Clerk, Mr. Grossi conducted legal research for several securities fraud class actions on behalf of shareholders, including Bank of America related to its acquisition of Merrill Lynch, Lehman Brothers, St. Jude Medical and NII Holdings.

**NATHAN A. HASIUK**, an associate of the Firm, concentrates his practice on securities litigation. Mr. Hasiuk received his law degree from Temple University Beasley School of Law, and graduated *summa cum laude* from Temple University. He is licensed to practice in Pennsylvania and New Jersey and has been admitted to practice before the United States District Court for the District of New Jersey. Prior to joining the Firm, Mr. Hasiuk was an Assistant Public Defender in Philadelphia.

**ALEX B. HELLER**, an associate of the Firm, concentrates his practice in the areas of merger and acquisition litigation and shareholder derivative actions. Alex helps shareholders obtain financial recoveries and the implementation of corporate governance reforms. Alex received his law degree from the George Mason University Antonin Scalia Law School in 2015 and his undergraduate degree from American University in 2008. While in law school, Alex served as an associate editor for the George Mason Law Review. Prior to joining the Firm, Alex was a partner at a plaintiffs' litigation firm, where he served as chair of the shareholder derivative litigation practice group. Alex is a Certified Public Accountant (CPA). Prior

to his legal career, Alex practiced as a CPA for several years, advising businesses and auditing large corporations.

**EVAN R. HOEY**, an associate of the Firm, focuses his practice on securities litigation. Mr. Hoey received his law degree from Temple University Beasley School of Law, where he graduated *cum laude*, and graduated *summa cum laude* from Arizona State University. He is licensed to practice in Pennsylvania and is admitted to practice before the United States District Court for the Eastern District of Pennsylvania.

**SUFEI HU**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her J.D. from Villanova University School of Law, where she was a member of the Moot Court Board. Ms. Hu received her undergraduate degree from Haverford College in Political Science, with honors. She is licensed to practice law in Pennsylvania and New Jersey, and is admitted to the United States District Court of the Eastern District of Pennsylvania. Prior to joining the Firm, Ms. Hu worked in pharmaceutical, anti-trust, and securities law.

**JORDAN JACOBSON**, an associate of the Firm, concentrates her practice in securities litigation. Ms. Jacobson received her law degree from Georgetown University in 2014 and her undergraduate degrees in history and political science from Arizona State University in 2011. Prior to joining the Firm, Ms. Jacobson clerked for the honorable Deborah J. Saltzman, United States Bankruptcy Judge, in the Central District of California. Ms. Jacobson was also previously an associate at O'Melveny & Myers LLP, and an attorney in the General Counsel's office of the Pension Benefit Guaranty Corporation in Washington, D.C. Ms. Jacobson is licensed to practice law in California and Virginia and will sit for the July 2020 Pennsylvania bar exam.

**JOSHUA A. LEVIN**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Levin received his law degree from Widener University School of Law, and earned his undergraduate degree from The Pennsylvania State University. Mr. Levin is licensed to practice in Pennsylvania and New Jersey. Prior to joining Kessler Topaz, he worked in pharmaceutical litigation.

**HENRY W. LONGLEY**, an associate of the Firm, concentrates his practice in the area of securities litigation. Mr. Longley earned his law degree from Temple University Beasley School of Law, where he was Note/Comment Editor of the Temple International & Comparative Law Journal. He was also a member of the Jessup International Law Moot Court Team and the Rubin Public Interest Law Honor Society, and received Temple's Certificate in Trial Advocacy and Litigation. Mr. Longley earned his undergraduate degree from William & Mary.

**JOHN J. McCULLOUGH**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. In 2012, Mr. McCullough passed the CPA Exam. Mr. McCullough earned his Juris Doctor degree from Temple University School of Law, and his undergraduate degree from Temple University. Mr. McCullough is licensed to practice in Pennsylvania.

**LAUREN M. McGINLEY**, an associate of the Firm, concentrates her practice in the areas of securities and consumer protection. Ms. McGinley received her undergraduate degree from Temple University in 2013 and her law degree from Drexel University, Thomas R. Kline School of Law in 2017. While at Drexel, Ms. McGinley received the Dean's Scholar for Excellence in Civil Procedure in 2015.

Prior to joining the Firm, Ms. McGinley clerked for the honorable Judge Alia Moses in the Western District of Texas from September 2017-August 2019.

**STEVEN D. McLAIN**, a staff attorney of the Firm, concentrates his practice in mergers and acquisition litigation and stockholder derivative litigation. He received his law degree from George Mason University School of Law, and his undergraduate degree from the University of Virginia. Mr. McLain is licensed to practice in Virginia. Prior to joining Kessler, Topaz, he practiced with an insurance defense firm in Virginia.

**STEFANIE J. MENZANO**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Menzano received her law degree from Drexel University School of Law in 2012 and her undergraduate degree in Political Science from Loyola University Maryland. Ms. Menzano is licensed to practice law in Pennsylvania and New Jersey.

Prior to joining Kessler Topaz, Ms. Menzano was a fact witness for the Institute for Justice. During law school, Ms. Menzano served as a case worker for the Pennsylvania Innocence Project and as a judicial intern under the Honorable Judge Mark Sandson in the Superior Court of New Jersey, Atlantic County.

**VANESSA M. MILAN**, a staff attorney of the Firm, concentrates her practice in the area of securities fraud litigation. Ms. Milan is an associate in the Firm's Philadelphia office and received her law degree from Temple University Beasley School of Law in 2019 and her undergraduate degrees in Government & Law and English from Lafayette College in 2016. While in law school, Ms. Milan served as an Articles Editor for the Temple Law Review. Prior to joining the firm, Ms. Milan served as a judicial law clerk to the Honorable Robert D. Mariani, United States District Court Judge for the Middle District of Pennsylvania. Ms. Milan is licensed to practice law in New York.

**TIMOTHY A. NOLL**, a staff attorney of the Firm, concentrates his practice in the area of securities fraud litigation. Mr. Noll received his law degree from the Southwestern University School of Law and his undergraduate degree in Communications from Temple University. Prior to joining the Firm, Mr. Noll was a staff attorney at Grant & Eisenhofer, P.A. and also worked in pharmaceutical litigation.

**ELAINE M. OLDENETTEL**, a staff attorney of the Firm, concentrates her practice in consumer and ERISA litigation. She received her law degree from the University of Maryland School of Law and her undergraduate degree in International Studies from the University of Oregon. While attending law school, Ms. Oldenettel served as a law clerk for the Honorable Robert H. Hodges of the United States Court of Federal Claims and the Honorable Marcus Z. Shar of the Baltimore City Circuit Court. Ms. Oldenettel is licensed to practice in Pennsylvania and Virginia.

**ALLYSON M. ROSSEEL**, a staff attorney of the Firm, concentrates her practice at Kessler Topaz in the area of securities litigation. She received her law degree from Widener University School of Law, and earned her B.A. in Political Science from Widener University. Ms. Rosseel is licensed to practice law in Pennsylvania and New Jersey. Prior to joining the Firm, Ms. Rosseel was employed as general counsel for a boutique insurance consultancy/brokerage focused on life insurance sales, premium finance and structured settlements.

**DANIEL B. ROTKO**, an associate of the Firm, concentrates his practice in the area of securities-related litigation matters. Prior to joining Kessler Topaz, Daniel was an associate for over five years at Drinker Biddle & Reath LLP (now known as Faegre Drinker Biddle & Reath LLP) and his practice primarily concerned representing insurers in civil matters litigated across the country. Daniel received his law degree from the University of Pennsylvania and his undergraduate degree from Gettysburg College. Daniel is admitted to practice in Pennsylvania and New Jersey.

**KARRISA J. SAUDER**, an associate of the Firm, concentrates her practice on new matter development with a focus on analyzing securities, consumer, and antitrust class action lawsuits, as well as direct (or opt-out) actions. Prior to joining the firm, Karissa was an associate with Berger Montague, where she litigated

complex antitrust class action lawsuits, and served as a judicial law clerk to the Honorable Eduardo C. Robreno, United States District Judge for the Eastern District of Pennsylvania. Karissa received her law degree from Harvard Law School in 2014 and her undergraduate degree from Eastern Mennonite University in 2010. While in law school, Karissa served as Managing Editor of the Harvard Law Review.

**MICHAEL J. SECHRIST**, a staff attorney at the Firm, concentrates his practice in the area of securities litigation. Mr. Sechrist received his law degree from Widener University School of Law in 2005 and his undergraduate degree in Biology from Lycoming College in 1998. Mr. Sechrist is licensed to practice law in Pennsylvania. Prior to joining Kessler Topaz, Mr. Sechrist worked in pharmaceutical litigation.

**IGOR SIKAVICA**, a staff attorney of the Firm, practices in the area of corporate governance litigation, with a focus on transactional and derivative cases. Mr. Sikavica received his J.D. from the Loyola University Chicago School of Law and his LL.B. from the University of Belgrade Faculty Of Law. Mr. Sikavica is licensed to practice in Pennsylvania. Mr. Sikavica's licenses to practice law in Illinois and the former Yugoslavia are no longer active.

Prior to joining Kessler Topaz, Mr. Sikavica has represented clients in complex commercial, civil and criminal matters before trial and appellate courts in the United States and the former Yugoslavia. Also, Mr. Sikavica has represented clients before international courts and tribunals, including – the International Criminal Tribunal for the Former Yugoslavia (ICTY), European Court of Human Rights and the UN Committee Against Torture.

**NATHANIEL SIMON**, an associate of the Firm, concentrates his practice in securities litigation. Before joining the firm, Nathaniel served as a judicial law clerk to the Honorable Mark A. Kearney, United States District Judge for the Eastern District of Pennsylvania. Nathaniel received his law degree from Villanova University, Charles Widger School of Law in 2018 and his undergraduate degree from Gettysburg College in 2014. While in law school, Nathaniel served as an Articles Editor for the *Villanova Law Review*.

**MELISSA J. STARKS**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Starks earned her Juris Doctor degree from Temple University--Beasley School of Law, her LLM from Temple University--Beasley School of Law, and her undergraduate degree from Lincoln University. Ms. Starks is licensed to practice in Pennsylvania.

**MARIA THEODORA STARLING**, a staff attorney of the Firm, concentrates her practice in the area of corporate governance litigation. Ms. Starling graduated from the Villanova University Charles Widger School of Law in 2020. While in law school, Ms. Starling interned as a law clerk to the Hon. Steven C. Tolliver of the Montgomery County Court of Common Pleas and as a summer associate at Fox Rothschild. Ms. Starling was also a member of the Villanova Law Moot Court Board and the Vice President of the Fashion Law Society.

**MICHAEL P. STEINBRECHER**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Steinbrecher earned his Juris Doctor from Temple University James E. Beasley School of Law, and received his Bachelors of Arts in Marketing from Temple University. Mr. Steinbrecher is licensed to practice in Pennsylvania and New Jersey. Prior to joining Kessler Topaz, he worked in pharmaceutical litigation.

**BRIAN W. THOMER**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. Mr. Thomer received his Juris Doctor degree from Temple University Beasley School of Law, and his undergraduate degree from Widener University. Mr. Thomer is licensed to practice in Pennsylvania.



**ALEXANDRA H. TOMICH**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. She received her law degree from Temple Law School and her undergraduate degree from Columbia University with a B.A. in English. She is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, she worked as an associate at Trujillo, Rodriguez, and Richards, LLC in Philadelphia. Ms. Tomich volunteers as an advocate for children through the Support Center for Child Advocates in Philadelphia and at Philadelphia VIP.

**JACQUELINE A. TRIEBL**, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Triebel received her law degree, cum laude, from Widener University School of Law in 2007 and her undergraduate degree in English from The Pennsylvania State University in 1990. Ms. Triebel is licensed to practice law in Pennsylvania and New Jersey.

**KURT WEILER**, a staff attorney of the Firm, concentrates his practice in the area of securities litigation. He received his law degree from Duquesne University School of Law, where he was a member of the Moot Court Board and McArdle Wall Honoree, and received his undergraduate degree from the University of Pennsylvania. Mr. Weiler is licensed to practice law in Pennsylvania.

Prior to joining Kessler Topaz, Mr. Weiler was associate corporate counsel for a Philadelphia-based mortgage company, where he specialized in the area of foreclosures and bankruptcy.

**ANNE M. ZANESKI\***, a staff attorney of the Firm, concentrates her practice in the area of securities litigation. Ms. Zaneski received her J.D. from Brooklyn Law School where she was a recipient of the CALI Award of Excellence, and her B.A. from Wellesley College. She is licensed to practice law in New York and Pennsylvania.

Prior to joining the Firm, she was an associate with a boutique securities litigation law firm in New York City and served as a legal counsel with the New York City Economic Development Corporation in the areas of bond financing and complex litigation.

\* Admitted as Anne M. Zaniewski in Pennsylvania.

## **PROFESSIONALS**

**WILLIAM MONKS**, CPA, CFF, CVA, Director of Investigative Services at Kessler Topaz Meltzer & Check, LLP (“Kessler Topaz”), brings nearly 30 years of white collar investigative experience as a Special Agent of the Federal Bureau of Investigation (FBI) and “Big Four” Forensic Accountant. As the Director, he leads the Firm’s Investigative Services Department, a group of highly trained professionals dedicated to investigating fraud, misrepresentation and other acts of malfeasance resulting in harm to institutional and individual investors, as well as other stakeholders.

William’s recent experience includes being the corporate investigations practice leader for a global forensic accounting firm, which involved widespread investigations into procurement fraud, asset misappropriation, financial statement misrepresentation, and violations of the Foreign Corrupt Practices Act (FCPA).

While at the FBI, William worked on sophisticated white collar forensic matters involving securities and other frauds, bribery, and corruption. He also initiated and managed fraud investigations of entities in the manufacturing, transportation, energy, and sanitation industries. During his 25 year FBI career, William also conducted dozens of construction company procurement fraud and commercial bribery investigations, which were recognized as a “Best Practice” to be modeled by FBI offices nationwide.



William also served as an Undercover Agent for the FBI on long term successful operations targeting organizations and individuals such as the KGB, Russian Organized Crime, Italian Organized Crime, and numerous federal, state and local politicians. Each matter ended successfully and resulted in commendations from the FBI and related agencies.

William has also been recognized by the FBI, DOJ, and IRS on numerous occasions for leading multi-agency teams charged with investigating high level fraud, bribery, and corruption investigations. His considerable experience includes the performance of over 10,000 interviews incident to white collar criminal and civil matters. His skills in interviewing and detecting deception in sensitive financial investigations have been a featured part of training for numerous law enforcement agencies (including the FBI), private sector companies, law firms and accounting firms.

Among the numerous government awards William has received over his distinguished career is a personal commendation from FBI Director Louis Freeh for outstanding work in the prosecution of the West New York Police Department, the largest police corruption investigation in New Jersey history.

William regards his work at Kessler Topaz as an opportunity to continue the public service that has been the focus of his professional life. Experience has shown and William believes, one person with conviction can make all the difference. William looks forward to providing assistance to any aggrieved party, investor, consumer, whistleblower, or other witness with information relative to a securities fraud, consumer protection, corporate governance, qui-tam, anti-trust, shareholder derivative, merger & acquisition or other matter.

#### Education

Pace University: Bachelor of Business Administration (cum laude)

Florida Atlantic University: Master's in Forensic Accounting (cum laude)

**BRAM HENDRIKS**, European Client Relations Manager at Kessler Topaz Meltzer & Check, LLP (“Kessler Topaz”), guides European institutional investors through the intricacies of U.S. class action litigation as well as securities litigation in Europe and Asia. His experience with securities litigation allows him to translate complex document and discovery requirements into straightforward, practical action. For shareholders who want to effect change without litigation, Bram advises on corporate governance issues and strategies for active investment.

Bram has been involved in some of the highest-profile U.S. securities class actions of the last 20 years. Before joining Kessler Topaz, he handled securities litigation and policy development for NN Group N.V., a publicly-traded financial services company with approximately EUR 197 billion in assets under management. He previously oversaw corporate governance activities for a leading Amsterdam pension fund manager with a portfolio of more than 4,000 corporate holdings.

A globally-respected investor advocate, Bram has co-chaired the International Corporate Governance Network Shareholder Rights Committee since 2009. In that capacity, he works with investors from more than 50 countries to advance public policies that give institutional investors a voice in decision-making. He is a sought-after speaker, panelist and author on corporate governance and responsible investment policies. Based in the Netherlands, Bram is available to meet with clients personally and provide hands-on-assistance when needed.

#### Education

University of Amsterdam, MSc International Finance, specialization Law & Finance, 2010

Maastricht Graduate School of Governance, MSc in Public Policy and Human Development, specialization WTO law, 2006 Tilburg University, Public Administration and administrative law B.A., 2004

# EXHIBIT D

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**DECLARATION OF BRAD SEIDEL IN SUPPORT OF  
CLASS COUNSEL’S MOTION FOR AN AWARD OF ATTORNEYS’ FEES  
FILED ON BEHALF OF SEIDEL LAW FIRM PC**

I, Brad Seidel, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the President of the Seidel Law Firm PC (“Seidel Firm”). I submit this Declaration on behalf of the Seidel Firm in support of Class Counsel’s motion for an award of attorneys’ fees in connection with services rendered by Class Counsel in the above-captioned class action (“Action”). Unless otherwise stated herein, I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm served as one of the Class Counsel and was involved in virtually every aspect of this litigation since its inception, as more fully described in the Declaration of Joseph Meltzer filed concurrently herewith.

3. From the time when potential claims were being investigated through April 22, 2021, I estimate that I have spent approximately 1975 hours working on the Action (exclusive of time expended on the application for attorneys’ fees). My standard rate for complex commercial

litigation during this time period is \$750, which is based on my years of experience as a commercial litigator, as well as market rates for similar practitioners in the field. This hourly rate is the same as, or comparable to, rates accepted by courts in other complex class actions. Applying this rate to my hours yields a lodestar of \$1,481,250. I have not included in this lodestar calculation any work performed by my professional support staff, which was substantial. I have also incurred reasonable and necessary expenses associated with travel in connection with this litigation which total \$1,213.65. Upon request, I will provide receipts for these expenses.

4. I have been licensed by, and in good standing with, the State Bar of Texas since 1998. I began my career as a law clerk to the Honorable Sidney A. Fitzwater and then practiced corporate, securities and transactional law for 5 years. Since 2004, I have practiced in the field of complex commercial and class action litigation, and have served as lead counsel and/or class counsel in numerous class actions during the last 17 years.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

Executed on April 23, 2021.



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BRAD SEIDEL

# EXHIBIT E



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**DECLARATION OF BRIAN CRAMER IN SUPPORT OF  
CLASS COUNSEL’S MOTION FOR AN AWARD OF ATTORNEYS’ FEES  
FILED ON BEHALF OF MATTINGLY & ROSELIUS PLLC**

I, Brian Cramer, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am of counsel to Mattingly & Roselius PLLC (“M&R” or “Firm”) and authorized by the Firm to give this Declaration. I submit this Declaration on behalf of M&R in support of Class Counsel’s motion for an award of attorneys’ fees in connection with services rendered by Class Counsel in the above-captioned class action (“Action”). Unless otherwise stated herein, I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. M&R served as one of the Class Counsel and was involved in virtually every aspect of this litigation since its inception, as more fully described in the Declaration of Joseph Meltzer filed concurrently herewith.

3. From the time when potential claims were being investigated through April 26, 2021, I estimate that I have spent approximately 2,090 hours working on the Action (exclusive of

time expended on the application for attorneys' fees). My standard rate for complex commercial litigation during this time period is \$675, which is based on my years of experience as a commercial litigator, as well as market rates for similar practitioners in the field. This hourly rate is the same as, or comparable to, rates accepted by courts in other complex class actions. Applying this rate to my hours yields a lodestar of \$1,410,750. I have not included in this lodestar calculation any work performed by professional support staff, which was considerable. The Firm also incurred reasonable and necessary expenses associated with travel, court fees, and document reproduction in connection with this litigation which total \$2,167.98. An itemization of these expenses can be provided upon request.

4. I have been licensed by, and in good standing with, the State Bar of Oklahoma since 2005. During the last fifteen years, I have practiced in the field of complex commercial, energy, and class action litigation, and have served as lead counsel and/or class counsel in several class actions.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

Executed on April 26, 2021.

  
\_\_\_\_\_  
BRIAN CRAMER

# EXHIBIT F

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**DECLARATION OF DAVID J. DREZ IN SUPPORT OF CLASS COUNSEL’S MOTION  
FOR AN AWARD OF ATTORNEYS’ FEES FILED ON BEHALF OF  
WICK PHILLIPS GOULD & MARTIN, LLP**

I, David J. Drez, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a partner of the law firm of Wick Phillips Gould & Martin, LLP (“Wick Phillips”). I submit this Declaration in support of Class Counsel’s motion for an award of attorneys’ fees in connection with services rendered by Class Counsel in the above-captioned class action (“Action”). Unless otherwise stated herein, I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm served as Class Counsel. The tasks undertaken by my firm in the Action can be summarized as follows: (i) a thorough legal and factual investigation of the claims against Defendant; (ii) briefing on a motion to dismiss and a motion for class certification; (iii) several rounds of briefing to the Fifth Circuit Court of Appeals (“Fifth Circuit”); (iv) presentation of argument to the Fifth Circuit; (v) preparation for an evidentiary hearing on the motion for class certification; (vi) extensive fact and expert discovery, including the deposition of a DEPCO

employee and defense of an expert deposition; (vii) analysis of documents produced by Defendant and third parties, and consultation with various experts; and (viii) arm's-length negotiations between Named Plaintiffs and Defendant.

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by the attorneys and professional support staff employees of my firm who devoted ten (10) or more hours to the Action, from the time when potential claims were being investigated through April 22, 2021, and the lodestar calculation for those individuals based on my firm's current hourly rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the hourly rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. No time expended on the application for attorneys' fees has been included.


4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit 1 are their standard rates. My firm's hourly rates are largely based upon a combination of the level of experience and practice area for each attorney and professional support staff employee, as well as market rates for practitioners in the field. These hourly rates are the same as, or comparable to, rates submitted by Wick Phillips and accepted by courts in commercial litigation matters.

5. The total number of hours expended by Wick Phillips in the Action, from inception through April 22, 2021, as reflected in Exhibit 1, is 663.8. The total lodestar for Wick Phillips, as reflected in Exhibit 1, is \$428,575.00, consisting of \$423,622.50 for attorneys' time and \$4,952.50 for professional support staff time.

6. With respect to the standing of my firm, attached hereto as Exhibit 2 are the biographies of the attorneys in my firm who were involved in the Action.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

Executed on April 21, 2021.

  
\_\_\_\_\_  
David J. Drez



**EXHIBIT 1**

*Seeligson et al. v. Devon Energy Production Co, L.P.*  
Civil Action No. 3-16-cv-00082-K (N.D. Tex.)

**WICK PHILLIPS GOULD & MARTIN, LLP****TIME REPORT**

From Inception Through April 22, 2021

<b>NAME</b>	<b>HOURLY RATE</b>	<b>HOURS</b>	<b>LODESTAR</b>
<b>Partners</b>			
David Drez	\$715.00	479.7	\$342,985.50
Jacob Fain	\$560.00	95.7	\$53,592.00
<b>Counsel / Associates</b>			
Zachary Farrar	\$450.00	60.1	\$27,045.00
<b>Paralegals</b>			
Susan Witt	\$175.00	28.3	\$4,952.50
<b>TOTALS</b>		<b>663.8</b>	<b>\$428,575.00</b>

**EXHIBIT 2**

*Seeligson et al. v. Devon Energy Production Co, L.P.*  
Civil Action No. 3-16-cv-00082-K (N.D. Tex.)

**WICK PHILLIPS GOULD & MARTIN, LLP**

**FIRM RESUME**



Law with Purpose.®



## David Drez

### **PARTNER**

Fort Worth

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T: 817.710.1014

F: 817.332.7789

David Drez represents clients in Texas and across the United States in a broad range of commercial disputes, with significant emphasis on oil and gas disputes litigation. A seasoned trial lawyer, he counsels clients in matters involving royalty disputes, breach of contract, non-compete agreements, fraud, and bankruptcy-related litigation. His oil and gas litigation experience includes payment disputes related to royalties, overriding royalties, and working interests, surface use disputes, and representation of service companies and exploration and production companies in a variety of contractual disputes. His experience extends through all phases of litigation at the trial and appellate levels and in industries including energy, real estate, transportation, and construction.

David has earned the respect of his clients and opponents alike for being a dedicated problem solver and determining the best course of action while obtaining the best possible result for his clients. Both straightforward and respectful, David provides honest advice on legal options in the context of a specific dispute. He has built long-term relationships of trust with his clients, balancing overall business goals with strategies for successfully litigating a particular case.

Among his more recent cases include representation of royalty owners in a suit against Chesapeake Energy Corporation regarding improper calculation and payment of royalties under an oil and gas lease. On his clients' behalf, he obtained a judgment of more than \$1 million for damages and attorneys' fees. This case was confirmed on appeal and argued before the Texas Supreme Court, where it was affirmed.

Before joining Wick Phillips, David spent 11 years at a large, Texas-based international law firm, where he was a partner in the firm's Fort Worth office. Immediately following law school, David served as a Judicial Clerk for the Honorable James T. Trimble, Jr., United States District Court Judge for the Western District of Louisiana.

### **In the News**

- Wick Phillips Prevails in Oil and Gas Dispute at Texas Supreme Court (June 23, 2015)

Wick Phillips earned another victory in a five year legal battle with Oklahoma-based energy

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Collin County | Granite Park Two | 5700 Granite Parkway, Suite 330 | Plano, Texas 75024 | 214.297.0250  
Dallas | 3131 McKinney Avenue | Suite 100 | Dallas, Texas 75204 | 214.692.6200  
Fort Worth | 100 Throckmorton Street | Suite 1500 | Fort Worth, Texas 76102 | 817.332.7788

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giant Chesapeake Energy. On June 12, the Supreme Court of Texas upheld a royalty owner's judgment against Chesapeake for approximately \$1 million in royalties, interest and attorney's fees. The dispute began in 2006 when Chesapeake acquired the leasehold rights to approximately 1,000 mineral acres in the Barnett Shale. According to the Court's opinion, although the lease agreement guaranteed "a perpetual, cost-free (except only its portion of production taxes) overriding royalty," Chesapeake deducted post-production expenses. In a 5-4 decision, the Court held that Chesapeake violated lease terms and improperly deducted post-production costs from overriding royalty payments owed to the royalty owner. In the Texas Supreme Court's opinion, Chief Justice Nathan Hecht wrote, "Generally speaking, an overriding royalty on oil and gas production is free of production costs but must bear its share of post-production costs unless the parties agree otherwise. The only question is whether the parties' lease expresses a different agreement. We conclude that it does. To read more, [click here](#).

- David Drez, Wick Phillips Partner, Comments on Gas Royalty Payments Case before the Texas Supreme Court

(Fort Worth Star-Telegram, March 28, 2015)

In an appeal to the Texas high court, Chesapeake Energy is defending how it deducted post-production costs from royalty checks, challenging a 2014 San Antonio appeals court ruling upholding a state district court decision that awarded Wick Phillips' client, the Hyder family of Fort Worth, at least \$1 million in royalties, interest and attorney fees. David Drez offered his perspective on the case to the Fort Worth Star-Telegram's Max Baker. To read the full article, [click here](#).

- Chesapeake Fights Royalty Ruling at Texas High Court

(Law 360, March 26, 2015)

During oral argument before the Texas Supreme Court, Chesapeake and the Hyder family, represented by Wick Phillips, were sharply at odds over whether the term "cost-free" in the Hyder lease applied to production costs associated with exploration and drilling, or whether the parties intended it to exempt the Hydres from paying part of post-production costs. To read the full article, [click here](#).

- Chesapeake Suit To Decide Who Foots The Gas Delivery Bill

(Law 360, March 23, 2015)

The Texas Supreme Court justices heard arguments on March 24 in a Chesapeake Energy Corp. royalty dispute that has the potential to clarify whether mineral rights owners can break from tradition and enter agreements letting them off the hook for post-production costs.

Chesapeake is seeking to overturn a 2014 decision in which the Fourth Court of Appeals held two of the company's subsidiaries, Chesapeake Exploration LLC and Chesapeake Operating Inc., liable to plaintiff Martha Hyder and family members, represented by Wick Phillips, for about \$1 million. The court, affirming a trial judgment in favor of the Hydres, held that while the general rule in Texas makes overriding royalties like those the Hydres owned subject to post-production costs, the family's lease shifted the burden to Chesapeake of paying for post-production activities like transferring and delivering the gas. To read the full article, [click here](#).



Law with Purpose.®

#### **Awards & Honors**

- Texas Super Lawyer, Texas Monthly (2013-2018)
- Best Lawyers in Dallas, D Magazine (2018)
- 360 West Magazine, Top Attorney (2017)
- Senior Articles Editor, SMU International Law Review Association

#### **Representative Matters**

- Lead trial counsel representing royalty owners in 2012 suit against Chesapeake Energy Corporation regarding improper calculation and payment of royalties under an oil and gas lease. Obtained judgment for damages and attorney's fees for more than \$1 million.
- Lead trial counsel in bankruptcy trial in the U.S. Bankruptcy Court, District of Delaware, successfully defeated \$8 million claim against the Debtor's estate related to its facility that manufactured fire and emergency vehicles. American LaFrance, LLC v. RT Jedburg Commerce Park, LLC, No. 08-10178 (BLS), Adversary No. 10-51245, United States Bankruptcy Court, D. Del., aff'd Civ. No. 11-1273-RGA (U.S. District Court, D. Del. (2012)).
- Lead trial counsel in federal fraud trial concerning the sale of fiber optic products. Obtained jury verdict of approximately \$12.5 million. Kevin M. Ehringer Enterprises, Inc. v. McData Services Corporation, No. 3:06-CV-812-L, U.S. District Court, Northern District of Texas; rev'd at 646 F.3d 321 (2011).
- Lead defense counsel representing oil and gas company in multiple suits arising out of wildfires that occurred in the Texas Panhandle in 2006. More than twelve separate cases were filed in six different counties with over 100 separate plaintiffs. In re Cano Petroleum Wildfire Litigation, No. 07-0593 (Tex. MDL 2008).

#### **Speeches**

- Royalty Clause Construction in Texas: Is Hyder part of the Heritage or More Surplusage? An update on Texas cases discussing postproduction costs and lease interpretation. CLE (April 15, 2016)

#### **All Practice Areas**

- Bankruptcy Litigation
- Civil Appeals
- Commercial Litigation
- Construction Litigation and Consultation
- Oil and Gas Litigation

#### **Education**

- Southern Methodist University Dedman School of Law (J.D., cum laude, 1998)
- Tulane University (B.A., 1995)



Law with Purpose.®

**Admissions**

- Louisiana
- New York
- Supreme Court of the United States
- Texas
- United States Court of Appeals for the Fifth Circuit
- United States District Court for the Northern, Southern, Eastern and Western Districts of Texas
- United States District Court for Western District of Louisiana



Law with Purpose.®



## Jacob Fain

### **PARTNER**

Fort Worth

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T: 817.710.1013

F: 817.332.7789

Jacob Fain is a trusted advisor and accomplished litigator. While much of his work involves disputes in the oil and gas industry, Jacob's experience in a broad variety of business disputes has earned him local and statewide recognition and success at trial and on appeal.

His oil and gas litigation experience includes disputes related to payment of royalties and overriding royalties, construction agreements, and the administration and division of oil and gas assets. Jacob represents royalty owners, pipeline contractors, and service companies, among others in the oil and gas industry. And he was a critical member of the Wick Phillips team that won the landmark decision from the Texas Supreme Court in *Chesapeake Exploration v. Hyder*.

Jacob's other commercial litigation experience includes a variety of contract-based disputes in arbitrations, trials, and appeals, including partnership and company agreements, non-competition and non-solicitation agreements, and real estate.

Prior to joining Wick Phillips, Jacob worked at a large international, Texas-based law firm in its business litigation practice.

### **Articles**

- Co-author, Royalty Clause Construction in Texas: Is Hyder part of the Heritage or More Surplusage? An update on Texas cases discussing postproduction costs and lease interpretations; Earnest E. Smith Oil, Gas, and Mineral Law Institute (April 15, 2016)

### **Awards & Honors**

- Top Attorneys, *Fort Worth Magazine* (2015-2020)
- 40 Under 40, *Fort Worth Business Press* (2018)
- Texas Super Lawyers Rising Star, *Texas Monthly* (2010-2012, 2014-2018)

### **Representative Matters**

- Defending an international company in bankruptcy adversary litigation that culminated in a six-week trial.
- Defending a glass manufacturer in arbitration.

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Fort Worth | 100 Throckmorton Street | Suite 1500 | Fort Worth, Texas 76102 | 817.332.7788

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- Defending a real estate developer in trial involving a partnership dispute.
- Securing a jury verdict for a medical device manufacturer.
- Defending a shipping-products manufacturer in a six-day arbitration.
- Securing a jury verdict and other relief for a transportation company.
- Defending a real estate owner in a bankruptcy adversary trial.
- Obtaining a reverse-and-render opinion in the Beaumont Court of Appeals on behalf of a truck manufacturer.
- Securing a favorable decision from the Fort Worth Court of Appeals involving a non-competition and non-solicitation agreement.
- Securing a favorable decision from the Texas Supreme Court for overriding royalty owners.

#### **All Practice Areas**

- Civil Appeals
- Commercial Litigation
- Labor and Employment Litigation
- Oil and Gas Litigation
- Real Estate Litigation

#### **Education**

- South Texas College of Law (J.D., cum laude, 2007)
- Texas Tech University (M.A., 2002)
- Texas A&M University (B.S., 2000)

#### **Memberships**

- Board of Directors, Miracle League DFW
- Board of Directors, Junior Achievement of the Chisholm Trail (2012-2018)
- Fellow, Texas Bar Foundation
- Leading Edge, a division of Leadership Fort Worth (Class of 2012)
- Member, Texas Aggie Bar Association
- Tarrant County Bar Association, Business Litigation Section

#### **Admissions**

- Texas
- United States District Court for the Northern, Southern, Eastern and Western Districts of Texas



Law with Purpose.®



## Zachary C. Farrar

### ASSOCIATE

Fort Worth

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Zachary Farrar joined Wick Phillips after gaining extensive experience working for an accomplished Fort Worth boutique litigation law firm. Over the years, he has represented numerous clients in various cases involving:

- Oil and Gas
- Banking
- Breach of Contract Disputes
- Landlord-Tenant Disputes

Prior to practicing law, Zac excelled in all academic endeavors. Specifically, he graduated magna cum laude from the Texas A&M University School of Law and was a member of the Texas A&M Law Review. Zac also graduated summa cum laude from Centenary College of Louisiana where he earned the 2011 Frost School of Business Top Finance Major Award as well as served as the captain of the men's varsity soccer team.

### Awards & Honors

- Best Lawyers: Ones to Watch (2021)
- Texas Rising Star, Super Lawyers (2019-2021)
- Top Attorney, Fort Worth Magazine (2017-2018)
- Belmont University Invitational All-Tournament Team
- College Sports Information Directors of America (CoSIDA) and ESPN the Magazine First Team Academic All-District VI
- Summit League Commissioner's List of Academic Excellence

### All Practice Areas

- Commercial Litigation
- Construction Litigation and Consultation
- Oil and Gas Litigation

### Education

- Texas A&M University School of Law (J.D., magna cum laude, 2014)
- Centenary College of Louisiana (B.S. Business Administration, summa cum laude, 2011)

### Admissions

- Texas
- United States District Court for the Northern, Southern, Eastern, and Western Districts of Texas

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# EXHIBIT G

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**DECLARATION OF JOSHUA L. HEDRICK IN SUPPORT OF CLASS COUNSEL’S  
MOTION FOR AN AWARD OF ATTORNEYS’ FEES FILED ON BEHALF OF  
HEDRICK KRING, PLLC**

I, Joshua L. Hedrick, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a founding partner of the law firm of Hedrick Kring, PLLC (“HK”). I submit this Declaration in support of Class Counsel’s motion for an award of attorneys’ fees in connection with services rendered by Class Counsel in the above-captioned class action (“Action”). Unless otherwise stated herein, I have personal knowledge of the facts set forth herein and, if called upon, could and would testify thereto.

2. My firm served as Local Counsel for Plaintiffs and the Certified Class after the case was transferred to the Northern District of Texas. The tasks undertaken by my firm in the Action can be summarized as follows: My firm was involved in the revision and editing process for all materials filed in this case after our appearance; we reviewed and/or revised all such materials to provide substantive comments while also ensuring compliance with local rules and practices. My firm was also responsible for ensuring compliance with all Court deadlines. Additionally, I also

appeared at every hearing and/or settlement conference that took place with the Court after my firm entered an appearance and occasionally interfaced with opposing counsel as necessary. I was also primarily responsible for interfacing with Court staff when the need arose.

3. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by the attorneys and professional support staff employees of my firm who devoted ten (10) or more hours to the Action, from the date on which my firm appeared in the case through April 22, 2021, and the lodestar calculation for those individuals based on my firm's current hourly rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. No time expended on the application for attorneys' fees has been included.

4. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit 1 are their standard rates. My firm's hourly rates are largely based upon a combination of the relevant knowledge, experience, and skill of the professional, market demand for services, and the total years of experience for each attorney and professional support staff employee. These hourly rates are the same as, or comparable to, rates submitted by HK in other complex class actions and the rates charged by HK in non-class matters.

5. The total number of hours expended by HK in the Action, from inception through April 22, 2021, as reflected in Exhibit 1, is 279.80. The total lodestar for HK, as reflected in Exhibit 1, is \$153,490.00, consisting of \$150,880.00 for attorneys' time and \$2,610.00 for professional support staff time.

6. With respect to the standing of my firm, attached hereto as Exhibit 2 is a brief biography of my firm and attorneys in my firm. While I did draw on the experience of the other

attorneys in my firm, I was the only attorney in my firm that spent more than 10 hours on this matter.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

Executed on April 23, 2021.

/s/ Joshua L. Hedrick  
Joshua L. Hedrick

**EXHIBIT 1**

*Seeligson et al. v. Devon Energy Production Co, L.P.*  
 Civil Action No. 3-16-cv-00082-K (N.D. Tex.)

**Hedrick Kring, PLLC**

**TIME REPORT**

From Inception Through April 22, 2021

<b>NAME</b>	<b>HOURLY RATE</b>	<b>HOURS</b>	<b>LODESTAR</b>
<b>Lawyers</b>			
Joshua L. Hedrick, Partner	\$575	262.40	\$150,880.00
<b>Staff</b>			
McKenzie C. Farley, Paralegal	\$150.00	17.4	\$2,610.00
<b>TOTALS</b>		<b>279.80</b>	<b>\$153,490.00</b>



**EXHIBIT 2**

*Seeligson et al. v. Devon Energy Production Co, L.P.*  
Civil Action No. 3-16-cv-00082-K (N.D. Tex.)

**HEDRICK KRING, PLLC**

**FIRM RESUME ATTACHED**



## HEDRICK KRING, PLLC - Dallas & Houston

ASSERTIVE AND METICULOUS.

Hedrick Kring rallies around major legal challenges. Motivated clients deserve representation with drive and decisiveness.



## PROFILE

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Hedrick Kring, PLLC, is a client-focused, results-driven business litigation firm. We act quickly and aggressively to protect your interests, focusing on what is important to you and your business. We are zealous advocates with extensive courtroom experience. We have a reputation for excellence and attention to detail.

Our clients range from individual entrepreneurs and startups to large corporations with business operations across the country and around the globe. We know our clients, understand their interests, and help define their goals. We represent an equal number of plaintiffs and defendants. Our practice is not a cookie-cutter practice; we thrive on creativity, variety, and flexibility. We are always working to help our clients achieve their goals.

Our lawyers have experience from national and regional law firms, federal clerkships, United States Department of Justice and private businesses. They have been honored by being named as Super Lawyers and Rising Stars by Texas Super Lawyers year after year; elected to the prestigious American Board of Trial Advocates (ABOTA); and featured in business and community publications like the Houston Business Journal, and D Magazine as Best Lawyers under 40 in Dallas, Best Lawyers in Dallas, the 22<sup>nd</sup> largest national verdict of 2017, and a Top 20 verdict in Texas 2019.

**Recent Results Obtained by the Firm and its Lawyers:**

Obtained favorable, multi-million-dollar settlement for a client in a construction defect matter (Joshua L. Hedrick and Kodie P. Bennion)

\$20 Million jury verdict in Dallas County District Court in favor of Preston Place Condominium for negligent placement of insurance (Joel Bailey, Joshua Hedrick, and Megan Servage)

Served as local counsel in an FCA case where the defense team prevailed on a motion to dismiss resulting in a complete dismissal with prejudice where the plaintiff sought tens of millions of dollars in alleged damages. (Joshua L. Hedrick)

Affirmance of complete dismissal of computer hacking and scraping lawsuit after oral argument before the United States Court of Appeals for the 5th Circuit (Peyton J. Healey)

After prevailing on summary judgment and in the Fifth Court of Appeals, successfully defended a petition for review to uphold a client's judgment at the Texas Supreme Court. (Jacob B. Kring and Megan E. Servage)

Complete defense verdict following week-long jury trial in Harris county district court, including recovery of attorneys' fees (Jacob Kring and Mark Fritsche)

Reversal of improperly granted summary judgment after oral argument before the United States Court of Appeals for the Fifth Circuit (Peyton J. Healey)

Voluntary dismissal of class action brought under the Telephone Consumer Protection Act against medical staffing company (Jacob B. Kring and C. Jeff Price)

Summary Judgment against oil and gas operator seeking \$3M in past proceeds for alleged fraudulent transfer (Jacob B. Kring and Megan E. Servage)

Represented healthcare startup pursuing recovery for trade secret misappropriation, quickly obtaining declaration of intellectual property ownership, clearing the way for seed round funding. (Jacob B. Kring and Peyton J. Healey)

Obtained voluntary dismissal with prejudice of employment claims brought against business arising out of the Fair Labor Standards Act (Peyton J. Healey)

Eight-figure jury verdict in Dallas, County, Texas, the 22nd largest of 2017, and the 5th largest in Texas (Peyton J. Healey)

Favorable settlement of \$100M lawsuit for an energy services company client in Fort Worth federal court against one of the largest Energy companies in America. The settlement saved the client from insolvency and the case was fought against the Texas Lawyer of the Year (Kevin Corcoran and Jacob Kring)

Defeated a defendant's motion for summary judgment seeking to dismiss client's fraudulent transfer action. (Joel B. Bailey, Megan E. Servage, and Sydney P. Sadler)



### Representative Class Action Matters:

- *Armstrong v. Kimberly-Clark*; Civil Action No. 3:20-cv-3150 (N.D. Tex.) — currently serving as co-counsel in prosecution of consumer protection class action alleging defects in flushable wipe product. (Josh Hedrick)
- *Isolde v. Trinity Industries Inc et al.*, Civil Action No. 2015-cv-02093 (N.D. Tex.)—served as co-counsel in defense of putative securities class action; case settled and settlement was approved. (Josh Hedrick)
- *Wendt et al. v. 24 Hour Fitness.*, Civil Action No. 2013-cv-04910 (N.D. Tex.)—served as co-counsel in defense of putative consumer class action; case dismissed with prejudice and dismissal affirmed on appeal. (Josh Hedrick)
- *HatchMed Corp. et al. v. HIMSS*; Civil Action No. 1:20-cv-03377 (N.D. Ill.) — currently serving as class counsel where the defendant has agreed to multi-million-dollar settlement, which has received preliminary approval. (Peyton J. Healey and Joshua L. Hedrick)

### The Firm's Areas of Practice

- Complex Business Litigation
- Class Action Litigation
- Bankruptcy Litigation
- Creditors' Rights Litigation
- Appellate Litigation
- Local Counsel Practice
- Contract Disputes
- Commercial Lender/Borrower Litigation
- Labor and Employment Disputes
- Securities Fraud Litigation
- Product Liability Litigation
- Real Estate Litigation
- Oil and Gas Litigation
- Trust and Estate Litigation
- Trade Secret Litigation
- Unfair Competition Litigation
- Shareholder and Partnership Disputes

### Community Involvement

Hedrick Kring lawyers are also active in their professional and local communities. Some of their activities include serving on community boards and volunteering with organizations such as Leukemia & Lymphoma Society of Dallas; Theatre Under the Stars (TUTS), Houston; and Interfaith Caring Ministries.

### Charity and Sponsorship

For its 2020 holiday service project, Hedrick Kring is supporting the Leukemia & Lymphoma Society. The Leukemia & Lymphoma Society is the world's largest voluntary health agency dedicated to blood cancer. Its mission is to cure leukemia, lymphoma, Hodgkin's disease, and myeloma, and to improve the quality of life of patients and their families. This is a cause near and dear to Hedrick Kring, PLLC's heart, as multiple friends and family members of our team have been impacted by blood cancers in recent years.

Hedrick Kring, PLLC also supports the Baylor Law scholarship funds, specifically supporting the Allison Dickson Baylor Law Scholarship, while also supporting Allison Dickson's year-end holiday project. Through this program, funds are raised to support children hospitalized during the holidays. Last year, Allison raised money to buy a portable gaming station for hospitalized children in Central Texas.

### Contact

#### **Dallas Office**

1700 PACIFIC AVENUE, SUITE 4650  
DALLAS, TEXAS 75201  
Direct: (214) 880-9600  
Fax: (214) 481-1844

#### **Houston Office**

808 TRAVIS STREET, SUITE 540  
HOUSTON, TEXAS 77002  
Direct: (832) 871-3370  
Fax: (281) 529-7677



JOSHUA L. HEDRICK | Partner

HEDRICK KRING, PLLC





## PROFILE

---

Joshua L. Hedrick is a business trial lawyer and a founding member of Hedrick Kring, PLLC. With a focus on high-stakes litigation, Mr. Hedrick handles a broad array of business disputes. His clients range from large, publicly-traded corporations to individual trustees. In recent years, his practice has increasingly centered around bankruptcy and insolvency-related litigation, with a particular focus on the representation of post-confirmation litigation trustees. His practice also includes shareholder and partnership disputes, fiduciary relationship disputes, insurance disputes, trade secret disputes, contract disputes, commercial real estate disputes, and disputes between commercial lenders and commercial borrowers.

Mr. Hedrick spends a significant amount of his time in the courtroom prosecuting and defending actions involving temporary restraining orders, temporary injunctions, and the appointment of receivers; handling oral arguments; and trying lawsuits to judges and juries. Mr. Hedrick is also an experienced advocate in arbitration proceedings.

## HONORS / AWARDS

---

- Up-and-Coming 100 (2019-2020) – recognized as one of the top 100 young lawyers in Texas by Texas Super Lawyers
- Named a “Rising Star” by Texas Super Lawyers (2015 – 2020)
- Recognized as one of the “Best Lawyers Under 40” in Dallas by D Magazine (2018)
- Dallas Bar Foundation (Fellow); Texas Bar Foundation (Fellow)

## EDUCATION

---

- Baylor University, J.D. 2007, *cum laude*, Leon Jaworski Scholarship Recipient; Baylor Law Review - Executive Editor
- Recognized as Baylor Law School’s Most Outstanding Advocate in 2007, after winning the 2007 American Association for Justice (formerly ATLA) Mock Trial National Championship and the 2006 ABA Moot Court Regional Championship
- University of Missouri, B.A., 2004, with honors
- Founder of University of Missouri CEDA/NDT Debate Team; College Debater of the Year (Glenn R. Capp Award) (2004)

## JUDICIAL CLERKSHIP

---

- Clerkship with the Honorable Ed Kinkeade of the United States District Court for the Northern District of Texas (2007-2008)

## ADMITTANCES

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Texas; all United States District Courts in Texas; U.S. Court of Appeals for the Fifth Circuit

# EXHIBIT H



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M. §  
SEELIGSON, SUZANNE SEELIGSON §  
NASH, and SHERRI PILCHER, individually §  
and on behalf of all others similarly situated, § Case No. 3:16-cv-00082-K

*Plaintiffs,*

v.

DEVON ENERGY PRODUCTION §  
COMPANY, L.P., §

*Defendant.*

**DECLARATION OF JOHN MICHAEL SEELIGSON IN SUPPORT OF  
APPROVAL OF SETTLEMENT AND CLASS COUNSEL’S REQUEST  
FOR ATTORNEYS’ FEES AND EXPENSES**

I, John Michael Seeligson, declare under penalty of perjury that the following is true and correct:

1. I am one of the Named Plaintiffs and Court-appointed Class Representatives in the above-captioned action. As a Named Plaintiff, I have kept in regular contact with the Plaintiffs’ lawyers in this litigation and have approved all major litigation decisions since I joined this class action litigation in 2014.

2. I have personal knowledge of the matters set forth herein and if called to do so, I could and would testify competently thereto. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation and Plaintiffs’ Counsel’s Motion for an Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs.

3. I have knowledge of the matters set forth in this Declaration based on my involvement in providing my attorneys with information relevant to the claims in this litigation, reviewing document and drafts of pleadings, assisting my attorneys in drafting the initial Complaint filed in the Eastern District of Texas, as well as the First Amended Class Action Complaint (the “FAC”).<sup>1</sup> I have maintained regular communication with my attorneys throughout this litigation, and have stayed apprised of the developments in the litigation, including the negotiations that led to the settlement.

**Work Performed on Behalf of the Class**

4. In 2014, I retained the law firms of (i) Tyler Shoop; (ii) Kessler Topaz Meltzer & Check, LLP, (iii) Keil & Goodson, PA, (iv) Mattingly & Roselius, PLLC, (v) Wick Phillips Gould & Martin, LLP, and (vi) the Seidel Law Firm, PC to investigate and pursue claims that I might have concerning my oil and gas leases with DEPCO. During this investigation, I participated in phone calls with my attorneys, and provided documents related to my oil and gas leases and payments thereunder to help them develop the factual information that they would use in the Complaint.

5. After consulting with my attorneys and discussing my attorneys’ litigation strategy, I agreed to be a Named Plaintiff in this action, and to act as a Class Representative of any certified class. I understood that this would entail having my name in a publicly-filed complaint; ongoing engagement with my legal team; participating in discovery, including a possible deposition; participating in a potential trial; and acting always in the best interest of the class.

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<sup>1</sup> *Seeligson et al. v. Devon Energy Prod. Co., L.P.*, No. 3:16-cv-00082-K, ECF No. 49.

6. To this end, I authorized the law firms set forth above to act as my attorneys for this litigation and further authorized them to file the Complaint, which they did on October 24, 2014.

7. I thereafter conferred with my attorneys via telephone on numerous occasions to discuss motion practice, amendments to the Complaint and the FAC, submission of a declaration in support of the motions for class certification, review of the appeal proceedings related to the class certification rulings, and litigation strategy. I also prepared and sat for a deposition on July 23, 2015, and attended a mediation before retired Magistrate Judge Paul D. Stickney on March 22, 2016, as well as the Class Certification Motion Hearing on May 4, 2016. *See* ECF No. 179.

#### **Support for the Settlement**

8. Prior to the mediation session held on October 7, 2020, I discussed settlement strategies with my attorneys and learned about DEPCO's defenses. I also discussed with my attorneys the risks of ongoing litigation and the likelihood of success should the case proceed to trial.

9. I recognize that it may have been difficult to recover all or most of the damages claimed if the case proceeded to trial. I understand that Plaintiffs and the Class have achieved a significant percentage of the damages Plaintiffs would have sought at trial.

10. Based on my understanding of the risks of ongoing litigation relative to accepting the mediator's proposal to resolve the action, I believe the \$28 million settlement that was achieved provides the best outcome for the class I sought to represent.

**Support for Class Counsel's Request for Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs**

11. I understand that Class Counsel<sup>2</sup> are seeking an award of \$9,333,333, which is equal to one-third of the Settlement Fund for attorneys' fees, reimbursement of litigation expenses, and service awards of \$20,000 to each of the Named Plaintiffs, subject to approval by the Court.

12. While I understand that the decision with respect to attorneys' fees and expenses is left to the Court, I have taken my role as a Class Representative seriously and have carefully considered Class Counsel's request and believe it is fair and reasonable.

13. I recognize that Class Counsel took a risk in litigating this case. In my opinion, Class Counsel represented the Class well during this litigation. They were highly qualified to represent the Class because of their work and extensive experience with complex litigation. My attorneys contacted me about major decisions, discussed my questions about the risks of continued litigation, and took my concerns into account. I believe that my attorneys carefully considered what was in the Class's best interest when making their settlement recommendation to me.

14. I understand that Class Counsel also believe that the contributions I have made to the litigation justify a service award. I understand that, when asking for this award, they considered my leading role in representing the Class and becoming one of the names associated with this litigation. They also considered my contributions in framing the Complaint and FAC, providing documents and insight into the lease agreements with DEPCO, preparing for and having my deposition taken, attending certain mediations and hearings, and my attention to various settlement options in light of the risks of continued litigation.

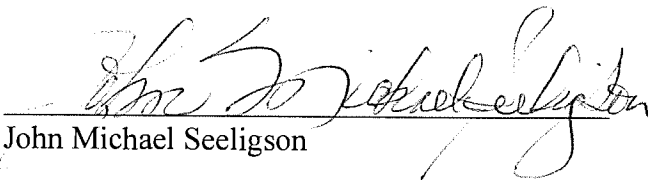
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<sup>2</sup> Class Counsel refers to the following law firms: Kessler Topaz Meltzer & Check, LLP; the Seidel Law Firm, P.C.; Wick Phillips Gould & Martin, LLP; and Mattingly & Roselius, PLLC, as appointed by the Court. *See* ECF No. 194.

15. As set forth above, since October 2014, I have diligently worked with my attorneys to understand how the well owners would have been compensated differently had DEPCO properly calculated royalty payments under their lease agreements.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15<sup>th</sup> day of April, 2021, in Dallas, Texas

  
John Michael Seeligson

# EXHIBIT I

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**DECLARATION OF HENRY SEELIGSON IN SUPPORT OF  
APPROVAL OF SETTLEMENT AND CLASS COUNSEL’S REQUEST  
FOR ATTORNEYS’ FEES AND EXPENSES**

I, Henry Seeligson, declare under penalty of perjury that the following is true and correct:

1. I am one of the Named Plaintiffs and Court-appointed Class Representatives in the above-captioned action. As a Named Plaintiff, I have kept in regular contact with the Plaintiffs’ lawyers in this litigation and have approved all major litigation decisions since I joined this class action litigation in 2014.

2. I have personal knowledge of the matters set forth herein and if called to do so, I could and would testify competently thereto. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation and Plaintiffs’ Counsel’s Motion for an Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs.

3. I have knowledge of the matters set forth in this Declaration based on my involvement in providing my attorneys with information relevant to the claims in this litigation,



reviewing document and drafts of pleadings, assisting my attorneys in drafting the initial Complaint filed in the Eastern District of Texas, as well as the First Amended Class Action Complaint (the “FAC”).<sup>1</sup> I have maintained regular communication with my attorneys throughout this litigation, and have stayed apprised of the developments in the litigation, including the negotiations that led to the settlement.

**Work Performed on Behalf of the Class**

4. In 2014, I retained the law firms of (i) Tyler Shoop; (ii) Kessler Topaz Meltzer & Check, LLP, (iii) Keil & Goodson, PA, (iv) Mattingly & Roselius, PLLC, (v) Wick Phillips Gould & Martin, LLP, and (vi) the Seidel Law Firm, PC to investigate and pursue claims that I might have concerning my oil and gas leases with DEPCO. During this investigation, I participated in phone calls with my attorneys, and provided documents related to my oil and gas leases and payments thereunder to help them develop the factual information that they would use in the Complaint.

5. After consulting with my attorneys and discussing my attorneys’ litigation strategy, I agreed to be a Named Plaintiff in this action, and to act as a Class Representative of any certified class. I understood that this would entail having my name in a publicly-filed complaint; ongoing engagement with my legal team; participating in discovery, including a possible deposition; participating in a potential trial; and acting always in the best interest of the class.

6. To this end, I authorized the law firms set forth above to act as my attorneys for this litigation and further authorized them to file the Complaint, which they did on October 24, 2014.

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<sup>1</sup> *Seeligson et al. v. Devon Energy Prod. Co., L.P.*, No. 3:16-cv-00082-K, ECF No. 49.

7. I thereafter conferred with my attorneys via telephone on numerous occasions to discuss motion practice, amendments to the Complaint and the FAC, submission of a declaration in support of the motions for class certification, review of the appeal proceedings related to the class certification rulings, and litigation strategy. I also prepared and sat for a deposition on July 23, 2015, and attended a mediation before retired Magistrate Judge Paul D. Stickney on March 22, 2016, as well as the Class Certification Motion Hearing on May 4, 2016, *see* ECF No. 179.

#### **Support for the Settlement**

8. Prior to the mediation session held on October 7, 2020, I discussed settlement strategies with my attorneys and learned about DEPCO's defenses. I also discussed with my attorneys the risks of ongoing litigation and the likelihood of success should the case proceed to trial.

9. I recognize that it may have been difficult to recover all or most of the damages claimed if the case proceeded to trial. I understand that Plaintiffs and the Class have achieved a significant percentage of the damages Plaintiffs would have sought at trial.

10. Based on my understanding of the risks of ongoing litigation relative to accepting the mediator's proposal to resolve the action, I believe the \$28 million settlement that was achieved provides the best outcome for the class I sought to represent.

#### **Support for Class Counsel's Request for Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs**

11. I understand that Class Counsel<sup>2</sup> are seeking an award of \$9,333,333, which is equal to one-third of the Settlement Fund for attorneys' fees, reimbursement of litigation expenses, and service awards of \$20,000 to each of the Named Plaintiffs, subject to approval by the Court.

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<sup>2</sup> Class Counsel refers to the following law firms: Kessler Topaz Meltzer & Check, LLP; the Seidel Law Firm, P.C.; Wick Phillips Gould & Martin, LLP; and Mattingly & Roselius, PLLC, as appointed by the Court. *See* ECF No. 194.

12. While I understand that the decision with respect to attorneys' fees and expenses is left to the Court, I have taken my role as a Class Representative seriously and have carefully considered Class Counsel's request and believe it is fair and reasonable.

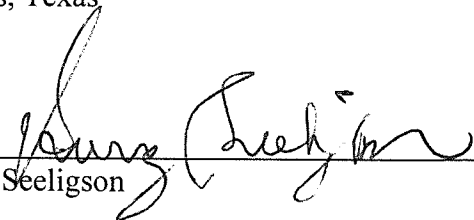
13. I recognize that Class Counsel took a risk in litigating this case. In my opinion, Class Counsel represented the Class well during this litigation. They were highly qualified to represent the Class because of their work and extensive experience with complex litigation. My attorneys contacted me about major decisions, discussed my questions about the risks of continued litigation, and took my concerns into account. I believe that my attorneys carefully considered what was in the Class's best interest when making their settlement recommendation to me.

14. I understand that Class Counsel also believe that the contributions I have made to the litigation justify a service award. I understand that, when asking for this award, they considered my leading role in representing the Class and becoming one of the names associated with this litigation. They also considered my contributions in framing the Complaint and FAC, providing documents and insight into the lease agreements with DEPCO, preparing for and having my deposition taken, attending certain mediations and hearings, and my attention to various settlement options in light of the risks of continued litigation.

15. As set forth above, since October 2014, I have diligently worked with my attorneys to understand how the well owners would have been compensated differently had DEPCO properly calculated royalty payments under their lease agreements.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this ~~14<sup>th</sup>~~ day of April, 2021, in Dallas, Texas

  
Henry Seeligson

# EXHIBIT J

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M. §  
SEELIGSON, SUZANNE SEELIGSON §  
NASH, and SHERRI PILCHER, individually §  
and on behalf of all others similarly situated, § Case No. 3:16-cv-00082-K

*Plaintiffs,*

v.

DEVON ENERGY PRODUCTION §  
COMPANY, L.P., §

*Defendant.*

**DECLARATION OF SUZANNE SEELIGSON NASH IN SUPPORT OF  
APPROVAL OF SETTLEMENT AND CLASS COUNSEL’S REQUEST  
FOR ATTORNEYS’ FEES AND EXPENSES**

I, Suzanne Seeligson Nash, declare under penalty of perjury that the following is true and correct:

1. I am one of the Named Plaintiffs and Court-appointed Class Representatives in the above-captioned action. As a Named Plaintiff, I have kept in regular contact with the Plaintiffs’ lawyers in this litigation and have approved all major litigation decisions since I joined this class action litigation in 2014.

2. I have personal knowledge of the matters set forth herein and if called to do so, I could and would testify competently thereto. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation and Plaintiffs’ Counsel’s Motion for an Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs.

3. I have knowledge of the matters set forth in this Declaration based on my involvement in providing my attorneys with information relevant to the claims in this litigation, reviewing document and drafts of pleadings, assisting my attorneys in drafting the initial Complaint filed in the Eastern District of Texas, as well as the First Amended Class Action Complaint (the “FAC”).<sup>1</sup> I have maintained regular communication with my attorneys throughout this litigation, and have stayed apprised of the developments in the litigation, including the negotiations that led to the settlement.

**Work Performed on Behalf of the Class**

4. In 2014, I retained the law firms of (i) Tyler Shoop; (ii) Kessler Topaz Meltzer & Check, LLP, (iii) Keil & Goodson, PA, (iv) Mattingly & Roselius, PLLC, (v) Wick Phillips Gould & Martin, LLP, and (vi) the Seidel Law Firm, PC to investigate and pursue claims that I might have concerning my oil and gas leases with DEPCO. During this investigation, I participated in phone calls with my attorneys, and provided documents related to my oil and gas leases and payments thereunder to help them develop the factual information that they would use in the Complaint.

5. After consulting with my attorneys and discussing my attorneys’ litigation strategy, I agreed to be a Named Plaintiff in this action, and to act as a Class Representative of any certified class. I understood that this would entail having my name in a publicly-filed complaint; ongoing engagement with my legal team; participating in discovery, including a possible deposition; participating in a potential trial; and acting always in the best interest of the class.

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<sup>1</sup> *Seeligson et al. v. Devon Energy Prod. Co., L.P.*, No. 3:16-cv-00082-K, ECF No. 49.



6. To this end, I authorized the law firms set forth above to act as my attorneys for this litigation and further authorized them to file the Complaint, which they did on October 24, 2014.

7. I thereafter conferred with my attorneys via telephone on numerous occasions to discuss motion practice, amendments to the Complaint and the FAC, submission of a declaration in support of the motions for class certification, review of the appeal proceedings related to the class certification rulings, and litigation strategy. I also attended a mediation before retired Magistrate Judge Paul D. Stickney on March 22, 2016, as well as the Class Certification Motion Hearing on May 4, 2016. *See* ECF No. 179.

#### **Support for the Settlement**

8. Prior to the mediation session held on October 7, 2020, I discussed settlement strategies with my attorneys and learned about DEPCO's defenses. I also discussed with my attorneys the risks of ongoing litigation and the likelihood of success should the case proceed to trial.

9. I recognize that it may have been difficult to recover all or most of the damages claimed if the case proceeded to trial. I understand that Plaintiffs and the Class have achieved a significant percentage of the damages Plaintiffs would have sought at trial.

10. Based on my understanding of the risks of ongoing litigation relative to accepting the mediator's proposal to resolve the action, I believe the \$28 million settlement that was achieved provides the best outcome for the class I sought to represent.

**Support for Class Counsel's Request for Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs**

11. I understand that Class Counsel<sup>2</sup> are seeking an award of \$9,333,333, which is equal to one-third of the Settlement Fund for attorneys' fees, reimbursement of litigation expenses, and service awards of \$20,000 to each of the Named Plaintiffs, subject to approval by the Court.

12. While I understand that the decision with respect to attorneys' fees and expenses is left to the Court, I have taken my role as a Class Representative seriously and have carefully considered Class Counsel's request and believe it is fair and reasonable.

13. I recognize that Class Counsel took a risk in litigating this case. In my opinion, Class Counsel represented the Class well during this litigation. They were highly qualified to represent the Class because of their work and extensive experience with complex litigation. My attorneys contacted me about major decisions, discussed my questions about the risks of continued litigation, and took my concerns into account. I believe that my attorneys carefully considered what was in the Class's best interest when making their settlement recommendation to me.

14. I understand that Class Counsel also believe that the contributions I have made to the litigation justify a service award. I understand that, when asking for this award, they considered my leading role in representing the Class and becoming one of the names associated with this litigation. They also considered my contributions in framing the Complaint and FAC, providing documents and insight into the lease agreements with DEPCO, attending certain mediations and hearings, and my attention to various settlement options in light of the risks of continued litigation.

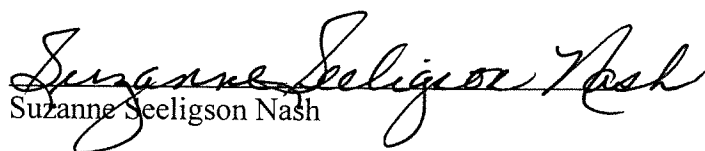
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<sup>2</sup> Class Counsel refers to the following law firms: Kessler Topaz Meltzer & Check, LLP; the Seidel Law Firm, P.C.; Wick Phillips Gould & Martin, LLP; and Mattingly & Roselius, PLLC, as appointed by the Court. *See* ECF No. 194.

15. As set forth above, since October 2014, I have diligently worked with my attorneys to understand how the well owners would have been compensated differently had DEPCO properly calculated royalty payments under their lease agreements.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_ day of April, 2021, in Dallas, Texas

  
Suzanne Seeligson Nash

# EXHIBIT K

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HENRY SEELIGSON, JOHN M.	§	
SEELIGSON, SUZANNE SEELIGSON	§	
NASH, and SHERRI PILCHER, individually	§	
and on behalf of all others similarly situated,	§	Case No. 3:16-cv-00082-K
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
DEVON ENERGY PRODUCTION	§	
COMPANY, L.P.,	§	
	§	
<i>Defendant.</i>	§	

**DECLARATION OF SHERRI MARIE PILCHER IN SUPPORT OF  
APPROVAL OF SETTLEMENT AND CLASS COUNSEL’S REQUEST  
FOR ATTORNEYS’ FEES AND EXPENSES**

I, Sherri Marie Pilcher, declare under penalty of perjury that the following is true and correct:

1. I am one of the Named Plaintiffs and Court-appointed Class Representatives in the above-captioned action. As a Named Plaintiff, I have kept in regular contact with the Plaintiffs’ lawyers in this litigation and have approved all major litigation decisions since I joined this class action litigation in 2014.
2. I have personal knowledge of the matters set forth herein and if called to do so, I could and would testify competently thereto. I submit this Declaration in support of Plaintiffs’ Motion for Final Approval of Class Action Settlement and Plan of Allocation

and Class Counsel's Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs.

3. I have knowledge of the matters set forth in this Declaration based on my involvement in providing my attorneys with information relevant to the claims in this litigation, reviewing document and drafts of pleadings, assisting my attorneys in drafting the initial Complaint filed in the Eastern District of Texas, as well as the First Amended Class Action Complaint (the "FAC").<sup>1</sup> I have maintained regular communication with my attorneys throughout this litigation, and have stayed apprised of the developments in the litigation, including the negotiations that led to the settlement.

#### **Work Performed on Behalf of the Class**

4. In 2014, I retained the law firms of (i) Tyler Shoop, (ii) Kessler Topaz Meltzer & Check, LLP, (iii) Keil & Goodson, PA, (iv) Mattingly & Roselius, PLLC, (v) Wick Phillips Gould & Martin, LLP, and (vi) the Seidel Law Firm, PC to investigate and pursue claims that I might have concerning my oil and gas leases with DEPCO. During this investigation, I participated in phone calls with my attorneys, and provided documents related to my oil and gas leases and payments thereunder to help them develop the factual information that they would use in the Complaint.

5. After consulting with my attorneys and discussing my attorneys' litigation strategy, I agreed to be a Named Plaintiff in this action, and to act as a Class Representative of any certified class. I understood that this would entail having my name in a publicly-filed complaint; ongoing engagement with my legal team; participating in

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<sup>1</sup> *Seeligson et al. v. Devon Energy Prod. Co., L.P.*, No. 3:16-cv-00082-K, ECF No. 49.



discovery, including a possible deposition; participating in a potential trial; and acting always in the best interest of the class.

6. To this end, I authorized the law firms set forth above to act as my attorneys for this litigation and further authorized them to file the Complaint, which they did on October 24, 2014.

7. I thereafter conferred with my attorneys via telephone on numerous occasions to discuss motion practice, amendments to the Complaint and the FAC, submission of a declaration in support of the motions for class certification, review of the appeal proceedings related to the class certification rulings, and litigation strategy. I also attended a mediation before retired Magistrate Judge Paul D. Stickney on March 22, 2016, as well as the Class Certification Motion Hearing on May 4, 2016, *see* ECF No. 179.

#### **Support for the Settlement**

8. Prior to the mediation session held on October 7, 2020, I discussed settlement strategies with my attorneys and learned about DEPCO's defenses. I also discussed with my attorneys the risks of ongoing litigation and the likelihood of success should the case proceed to trial.

9. I recognize that it may have been difficult to recover all or most of the damages claimed if the case proceeded to trial. I understand that Plaintiffs and the Class have achieved a significant percentage of the damages Plaintiffs would have sought at trial.



10. Based on my understanding of the risks of ongoing litigation relative to accepting the mediator's proposal to resolve the action, I believe the \$28 million settlement that was achieved provides the best outcome for the class I sought to represent.

**Support for Class Counsel's Request for Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards to Named Plaintiffs**

11. I understand that Class Counsel<sup>2</sup> are seeking an award of \$9,333,333, which is equal to one-third of the Settlement Fund for attorneys' fees, reimbursement of litigation expenses, and service awards of \$20,000 to each of the Named Plaintiffs, subject to approval by the Court.

12. While I understand that the decision with respect to attorneys' fees and expenses is left to the Court, I have taken my role as a Class Representative seriously and have carefully considered Class Counsel's request and believe it is fair and reasonable.

13. I recognize that Class Counsel took a risk in litigating this case. In my opinion, Class Counsel represented the Class well during this litigation. They were highly qualified to represent the Class because of their work and extensive experience with complex litigation. My attorneys contacted me about major decisions, discussed my questions about the risks of continued litigation, and took my concerns into account. I

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<sup>2</sup> Class Counsel refers to the following law firms: Kessler Topaz Meltzer & Check, LLP; the Seidel Law Firm, P.C.; Wick Phillips Gould & Martin, LLP; and Mattingly & Roselius, PLLC, as appointed by the Court. *See* ECF No. 194.


believe that my attorneys carefully considered what was in the Class's best interest when making their settlement recommendation to me.

14. I understand that Class Counsel also believe that the contributions I have made to the litigation justify a service award. I understand that, when asking for this award, they considered my leading role in representing the Class and becoming one of the names associated with this litigation. They also considered my contributions in framing the Complaint and FAC, providing documents and insight into the lease agreements with DEPCO, attending certain mediations and hearings, and my attention to various settlement options in light of the risks of continued litigation.

15. As set forth above, since October 2014, I have diligently worked with my attorneys to understand how the well owners would have been compensated differently had DEPCO properly calculated royalty payments under their lease agreements.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14<sup>th</sup> day of April, 2021, in Dallas, Texas

  
Sherri Marie Pilcher