

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

Wake Energy, LLC, on behalf of itself and all)
others similarly situated,)
)
Plaintiff,)
)
v.)
)
Devon Energy Production Company, L.P.,)
)
Defendant.)

Case No. CJ-2024-267

STATE OF OKLAHOMA }
GARVIN COUNTY }
FILED }
FEB - 7 2025 }
AT _____ O'clock _____ M. }
LAURA LEE, Court Clerk }
BY _____ DEPUTY }
55.

ORDER AWARDING CASE CONTRIBUTION AWARD

Before the Court are Class Representative's¹ December 17, 2024 Motion for Approval of Case Contribution Award (the "Motion") and Memorandum of Law in Support thereof (the "Memorandum"), wherein Class Representative seeks a Case Contribution Award of up to \$40,000.00 to be paid from the Gross Settlement Fund. The Court has considered the Motion and the Memorandum, all matters and evidence submitted in connection therewith, and the proceedings on the Final Fairness Hearing held February 7, 2025. As set forth more fully below, the Court finds the Motion should be **GRANTED**. It is therefore **ORDERED** as follows:

1. The Court, for purposes of this Order, incorporates herein its findings of fact and conclusions of law from its Order and Judgment Granting Final Approval of Class Action Settlement as if fully set forth herein.
2. The Court has jurisdiction to enter this Order and over the subject matter of the Litigation and all parties to the Litigation, including all Settlement Class Members.

¹ All capitalized terms not otherwise defined herein shall have the meaning given to them in the September 30, 2024 Settlement Agreement, a copy of which is attached as Exhibit 1 to the Memorandum of Law in Support of Plaintiff's Unopposed Motion to Certify the Settlement Class for Settlement Purposes, Preliminary Approval of Class Action Settlement, Approving Form and Manner of Notice and Set Date for Final Approval Hearing that was filed on October 17, 2024.

3. The Notices stated that Class Representative intended to seek a Case Contribution Award of up to \$40,000.00 to be paid from the Gross Settlement Fund. *See* Declaration of Settlement Administrator, attached as Exhibit 3 to Class Representative's Memorandum of Law in Support of Motion for Final Approval ("Settlement Administrator Declaration"). Notice of Class Representative's request for a Case Contribution Award was given to all Settlement Class Members who could be identified with reasonable effort. The form and method of notifying the Settlement Class of the request for a Case Contribution Award is hereby determined to have been the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons and entities entitled to receive such notice, and fully satisfies the requirements of 12 O.S. § 2023, Oklahoma law governing civil procedure, and due process.

4. Class Representative provided the Court with sufficient evidence in support of its request for a Case Contribution Award, including, but not limited to: (1) the Motion and Memorandum; (2) the Declaration of Class Counsel, attached as Exhibit 2 to Class Representative's Memorandum of Law in Support of Motion for Final Approval ("Class Counsel Declaration"); (3) the Declaration of Class Representative, attached as Exhibit 1 to Class Representative's Memorandum of Law in Support of Motion for Final Approval ("Class Representative Declaration"); and (4) the applicable law, and all pleadings, declarations, and records on file in this matter. This evidence was submitted to the Court well before the objection and opt-out deadline, and none of the evidence was objected to or otherwise refuted by any Settlement Class Member.

5. Class Representative is hereby awarded a Case Contribution Award of \$39,000.00 to be paid from the Gross Settlement Fund. In making this award, the Court makes the following findings of fact and conclusions of law:

- a. The Settlement has created a fund of \$2,000,000.00 in cash for immediate payment to the Settlement Class. Settlement Class Members will benefit from the Settlement that occurred because of the substantial efforts of Class Representative and Class Counsel;
- b. On December 16, 2024, JND caused the Postcard Notice to be mailed to 6,376 potential Class Members in the initial Class Member Mailing List. *See* Settlement Administrator Declaration, at ¶ 5. The Notice expressly stated that Class Representative would seek a Case Contribution Award of up to \$39,000.00. *See id.*, at Exhibit “A”. The Postcard Notice also directed class members to a website for further information, including the Long Notice, and provided the option of requesting the Long Notice to be sent via U.S. Mail. *See id.*;
- c. Class Representative timely filed its Motion prior to the deadline for Settlement Class Members to object. No Class Member filed an objection to Class Representative’s request for a Case Contribution Award or otherwise appeared before the Court to assert an objection to Class Representative’s request;
- d. Oklahoma courts “regularly grant incentive awards to compensate named class representatives for the work they performed – their time and effort invested in the case.” *Strack v. Continental Res., Inc.*, 2021 OK 21, ¶ 33, 507 P.3d 609, 620. Decisions from Oklahoma courts demonstrate the state’s longstanding commitment to compensating class representatives for the valuable work they perform on behalf of class members. *See, e.g., DDL Oil & Gas, LLC v. Diversified Production, LLC*, No. CJ-2019-17 (Okla. Dist. Ct. Blaine County, Sept. 18, 2023); *Fitzgerald Farms, LLC v. Chesapeake Operating, LLC*, No. CJ-2010-38 (Okla. Dist. Ct. Beaver County, July 2, 2015); *Drummond v. Range*, No.

CJ-2010-510 (Okla. Dist. Ct. Grady County, September 9, 2013); *Sacket v. Great Plains Pipeline Co.*, No. CJ-2002-70 (Okla. Dist. Ct. Woods County, March 5, 2009); *Continental Res., Inc. v. Conoco Inc.*, No. CJ-95-739; CJ-2000-356 (Okla. Dist. Ct. Garfield County, August 22, 2005); *Robertson/Taylor v. Sanguine, Ltd.*, No. CJ- 2002-150 (Okla. Dist. Ct. Caddo County, July 11, 2003).

e. “Courts should grant incentive awards to class representatives based on the actual time expended on services rendered and other factors similar to those outlined in Oklahoma’s class action attorney fee statute pertinent to an incentive award.” *Id.* at ¶ 34 (citing 12 O.S. § 2023(G)(4)(e)); *see also* 5 William Rubenstein, *Newberg on Class Actions* § 17.12 (5th ed. 2021) (“*Newberg*”) (explaining incentive awards are based on evidence of the particular services performed, the risks encountered, and any other factors pertinent to the award). Oklahoma courts have authority to award amounts beyond a simple calculation of the time and labor expended by the class representative. *See id.*

f. When considering a request for a case contribution award, courts often begin with the “time and labor required.” *See* 12 O.S. § 2023(G)(4)(e)(1). The services for which incentive awards are given typically include “monitoring class counsel, being deposed by opposing counsel, keeping informed of the progress of the litigation, and serving as a client for purposes of approving any proposed settlement with the defendant.” *See Newberg* at § 17:3. The award should be proportional to the contribution of the plaintiff. *Phillips v. Asset Acceptance, LLC*, 736 F.3d 1076, 1081 (7th Cir. 2013) (noting that if the lead plaintiff’s services are greater, her incentive award likely will be greater); *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 958 (9th Cir. 2009) (“Incentive awards . . . are intended

to compensate class representatives for work done on behalf of the class . . .”); *see also Newberg* at § 17:18.

g. Class Representative’s requested award comports with awards granted in similar oil and gas class actions in both state and federal courts in Oklahoma. *See* Para. 5(d), *supra*.

h. Class Representative seeks a modest, dollar-based award of \$40,000.00. This request is supported by the abundant evidence submitted by Class Representative, including Class Representative’s Declaration and representations made by Class Counsel. *See Newberg* at § 17:12 (evidence might be provided through “affidavits submitted by class counsel and/or the class representatives, through which these persons testify to the particular services performed, the risks encountered, and any other facts pertinent to the award.”). This evidence demonstrates Class Representative is seeking payment at a reasonable rate for reasonable time expended on services that were helpful and non-duplicative to the Litigation, as well as the time they will have expended in the weeks leading up to the Final Fairness Hearing and thereafter, if necessary.

i. Class Representative’s years of experience in the oil and gas industry provides ample support for its requested incentive award. *See* Class Representative Declaration at ¶ 3.

j. As demonstrated by its Declaration, both the rate and efforts of Class Representative are reasonable. Specifically, at the time of its Declaration, Class Representative had dedicated over 100 hours to the Litigation since its filing in 2021. *See* Class Representative Declaration at ¶ 19. These hours were spent collecting documents; reviewing pleadings, motions, and other court filings; communicating regularly with Class

Counsel; reviewing expert analysis on damages; participating in two mediations; and actively participating in the negotiations that led to the settlement of this Litigation. *See id.* at ¶¶ 7-10 & 19. All these efforts were necessary and beneficial to the Litigation and the ultimate Settlement. *Id.* Further, Class Representative spent additional time on this Litigation through the Final Fairness Hearing and they will continue to work on behalf of the Settlement Class in the coming weeks and months, including through the administration of the Settlement. Class Representative will also incur additional time in the event of an appeal, conferring with Class Counsel and reviewing additional pleadings. *See id.* at ¶ 19. These additional commitments are reasonably expected to add at least an additional 30-40 hours that Class Representative will dedicate to this Litigation, if necessary. However, even if Class Representative never worked another hour on this case, the request of \$40,000.00 is justified by a reasonable and modest hourly rate.

k. Class Representative were heavily involved in all aspects of the Litigation. Class Representative actively and effectively fulfilled its obligations as the representative of the Settlement Class, complying with all reasonable demands placed upon them during the prosecution and settlement of this Litigation, and they provided valuable assistance to Class Counsel. *See* Class Representative Declaration at ¶¶ 10 & 19. In addition, Class Representative has produced documents, reviewed pleadings, motions, and other court filings, communicated regularly with Class Counsel, reviewed expert analysis on damages, and actively participated in the negotiations that led to the settlement of this Litigation. *See id.* All of these efforts were necessary and beneficial to the Litigation and the ultimate Settlement.

1. Class Representative was never promised any recovery or made any guarantees prior to filing this Litigation, nor at any time during the Litigation. *See* Class Representative Declaration at ¶ 20. In fact, Class Representative understands and agrees that such an award, or rejection thereof, has no bearing on the fairness of the Settlement and that it will be approved and go forward no matter how the Court rules on the request for a case contribution award. *Id.* In other words, Class Representative fully supports the Settlement as fair, reasonable, and adequate, even if they are awarded no case contribution award at all. *Id.* Finally, Class Representative does not have any conflicts of interest with Class Counsel or any absent class member. *Id.* Accordingly, Class Representative's request for a case contribution award here is fair and reasonable and supported by the same evidence of reasonableness.

m. Because Class Representative has dedicated their time, attention, and resources to this Litigation, they are entitled to the requested Case Contribution Award.

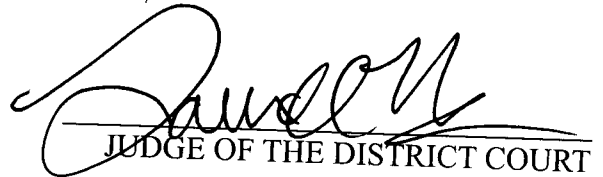
n. Class Representative's request for a Case Contribution Award of \$40,000.00 is supported by evidence showing it to be fair and reasonable under Oklahoma law.

6. Any appeal or any challenge affecting this Order Awarding Case Contribution Award shall in no way disturb or affect the finality of the Order and Judgment Granting Final Approval of Class Action Settlement, the Settlement Agreement, or the Settlement contained therein.

7. Exclusive jurisdiction is hereby retained over the parties and the Settlement Class Members for all matters relating to this Litigation, including the administration, interpretation, effectuation, or enforcement of the Settlement Agreement and this Order.

8. There is no reason for delay in the entry of this Order and immediate entry by the Clerk of the Court is expressly directed pursuant to Oklahoma law.

IT IS SO ORDERED this 7 day of February 2025.


JUDGE OF THE DISTRICT COURT