

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

<b>DORSEY J. REIRDON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. <u>6:16-cv-00087-KEW</u></b>
	)	
<b>XTO ENERGY INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**DECLARATION OF MICHAEL BURRAGE**

I, Michael Burrage of WHITTEN BURRAGE (“WB”) declare under penalty of perjury, as follows:

1. I am a partner at WB. I submit this declaration in support of Class Counsel’s Motion for Final Approval (“Approval Motion”), Class Counsel’s Motion for Approval of Attorneys’ Fees (“Fee Motion”), Class Counsel’s Motion for Approval of Reimbursement of Litigation Expenses (“Expense Motion”), and Class Representative’s Motion for Approval of Case Contribution Award (“Contribution Motion”), which are filed contemporaneously herewith. Unless otherwise stated herein, the statements made herein are made based upon my personal knowledge and information available to me to the best of my recollection, and while I do not believe there are any errors, omissions, incomplete or incorrect statements, to the extent any occur, they are wholly accidental and unintentional.

2. I have litigated class actions and complex commercial and tort litigation in the Federal and state Courts of Oklahoma and other courts around the country.

3. WB, along with Richards & Connor, are court-appointed Liaison Local Counsel for Plaintiff and the Settlement Class. I personally rendered legal services in this Litigation. As Liaison Local Counsel for Plaintiff, I contributed to this Litigation and performed work on behalf of and for the benefit of the Settlement Class. Specifically, I was involved in many aspects of the

Litigation on behalf of Plaintiff while the matter was pending. A summary of Class Counsel's work in this matter is set forth in more detail in the Declaration of Bradley E. Beckworth and Patrick M. Ryan on Behalf of Class Counsel (hereinafter "Joint Class Counsel Declaration"), filed contemporaneously herewith.

4. I believe, and numerous state and federal courts in Oklahoma have determined, that a 40% contingent fee is within the appropriate market rate range for cases of this nature. I am personally experienced and qualified to offer evidence regarding what I believe are reasonable attorney rates in Oklahoma multi-state class actions. Among other things, my qualifications are as follows: I have been practicing law for approximately 43 years in Oklahoma state and federal courts. I am a member of the American College of Trial Lawyers. I set as a United States District Court Judge for approximately 7 years, serving as the Chief Judge in the Eastern District of Oklahoma for approximately 5 years. During the time I was a United States District Judge, I served on the Tenth Circuit Court of Appeals by designation. I also served as local counsel for plaintiff in the matter of *CompSource Oklahoma v. BNY Mellon* in the United States District for the Eastern District of Oklahoma. I am presently lead counsel for the State of Oklahoma in its action against the opioid manufacturers. Through this experience, I have become experienced and familiar with the market rates for attorneys operating on various fee structures including contingent fees where expenses are advanced and hourly fees where expenses are not advanced.

5. Based upon my experience, knowledge, education, research, and professional qualifications, I believe that the 40% contingent fee we agreed to with Mr. Reirdon is the market rate for this case and is fair and reasonable and, further, that the hourly rates Mr. Reirdon agreed upon for me, WB and our co-counsel are well below market rate for cases prosecuted on a

contingent basis and indeed a multiplier of 4-8 times those hourly rates is well within the market rate approved by Oklahoma state and federal courts for this type of case.

6. The information in this declaration regarding WB's time and expenses is based upon a review of WB records maintained by WB in the ordinary course of business. I am the partner who oversaw and/or conducted the day-to-day activities in the Litigation. This declaration was prepared by me, with the assistance of staff members at WB, and reviewed in detail by me before signing. As discussed in the Joint Class Counsel Declaration, as well as the Declaration of Dorsey J. Reirdon, we were retained by Mr. Reirdon to prosecute this case on a fully contingent basis. Mr. Reirdon negotiated, and we agreed to, prosecute this case on a fully contingent basis with a fee arrangement of 40% of any recovery obtained for Mr. Reirdon and/or the putative class. Further, in the present case, the Defendant and Mr. Reirdon have contractually agreed that all fee determinations shall be governed by federal common law. Federal common law, in the Tenth Circuit, clearly states that use of the percentage of the recovery is the preferred method. Thus, the contractually agreed 40% contingent fee amount is the amount under which Mr. Reirdon and Class Counsel worked at all times and that is the amount by which the reasonableness of the fee request should be considered.

7. In addition to the contractually agreed upon 40% contingent fee market rate, Mr. Reirdon also negotiated an hourly rate that Class Counsel and additional Plaintiff Counsel would bill at in the event this Court determined that it was appropriate to consider Plaintiff's Counsel's hourly rates in determining whether any fee request is fair and reasonable when applied to the Class as a whole. We negotiated these hourly rates with Mr. Reirdon to take into account the highly complex and contingent nature of this litigation. Mr. Reirdon and Class Counsel understood that we would work on a fully contingent basis and that such hourly rates would only be used if

ordered by the Court and, even then, would be the basis for a request for an enhancement multiplier given that we worked on a fully contingent basis, at risk of non-payment, and advanced all costs and expenses.

8. Mr. Reirdon and Class Counsel negotiated the following rates, with an expectation that the negotiated 40% percentage would be applied but, if applicable, these rates would be analyzed against a multiplier to be set by the Court:

<b>Title</b>	<b>Hourly Billing Rate</b>
Senior Partner Robert Barnes	\$900.00
Senior Partner Bradley Beckworth, Jeffrey Angelovich, Patrick M. Ryan, Patranell Lewis, Michael Burrage and Larry Murphy	\$875.00
Partner	\$700.00
Associates— 6-plus years	\$500.00
Associates— 4-6 years	\$450.00
Associates— 2-4 years	\$400.00
Associates— 1 <sup>st</sup> year	\$350.00
Project Associate (Manager)	\$300.00
Project Associate	\$275.00
Senior Paralegal	\$275.00
Paralegal	\$250.00
Legal Assistant	\$200.00

9. The hourly rates set forth in this chart were contractually agreed to between WB and Plaintiff. Mr. Reirdon negotiated an hourly rate that Class Counsel and additional Plaintiff's Counsel would bill at in the event this Court determined that it was appropriate to consider Plaintiff's Counsel's hourly rates to determine whether any fee request is fair and reasonable when applied to the Settlement Class as a whole. To be clear, Mr. Reirdon did not agree to pay these rates, nor could he afford to. My firm's hourly rates are largely based upon a combination of my specific role, cost to the firm, nature of the litigation, and the specific years of my experience and paralegal. Based on my knowledge and experience, I believe these rates are also within the range—and indeed below—those normally and customarily charged in their respective cities by

attorneys and paraprofessionals of similar qualifications and experience in cases similar to this litigation, and have been approved in connection with other class action settlements.

10. Moreover, my firm does a substantial volume of hourly work. At the above-described hourly rates, I would not have approved, and my firm would not have authorized, accepting this engagement if WB were required to advance fees and expenses with no expectation or guarantee of repayment and no guaranteed multiplier to the hourly fees in the range of at least 4-8, the amount normally approved in such cases. WB simply could not take on the risk of losing the time, labor, and expenses required for such an engagement under those terms, and I know of no hourly firm that would enter such an arrangement in this type of case with the attendant risks.

11. I have been provided with access to material information supporting the fee and expense requests that are the subject of this declaration, and have reviewed such materials. As a result of this review, reductions were made to both time and expense in the exercise of "billing judgment." As a result of the review and the adjustments made, I believe the time and the expenses set forth below are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of the Litigation.

12. Based on the work performed and this review of information reflecting work performed by attorneys at WB in this Litigation, I directed preparation of the chart set forth below identifying the names and positions of WB's attorneys and paraprofessionals who undertook litigation activities in connection with the Litigation, each individual's hourly rate, and the total number of hours each individual expended in connection with work on the Litigation.

13. As set forth below, the total number of hours expended by WB in this Litigation, from investigation through December 27, 2017, is 124.4 hours. The total lodestar for WB for this

time period is \$108,850. WB has incurred expenses in the amount of \$1,920 in connection with this litigation.

<b>Name</b>	<b>Title</b>	<b>Hours</b>	<b>Rate</b>	<b>Lodestar</b>
Michael Burrage	Sr. Partner	124.4	\$875	\$108,850

14. In my judgment, the number of hours I expended and the services I performed and the number of hours expended and the services performed by the legal assistants at WB were reasonable and expended for the benefit of the Settlement Class in this Litigation. I believe this total number of hours is a conservative and understated amount because, among other things, all of our attorneys work extensively on many matters in a collaborative context where it is not possible to record every hour worked and/or not possible to reduce any given hour to only one case. Therefore, I believe my firm worked many more hours on this case than the hours listed above.

15. Additionally, WB has performed a reasonable and good faith estimate of its anticipated hours and services that it will devote to this Litigation through the Final Fairness Hearing, currently scheduled for January 24, 2018. The total number of hours WB anticipates in this Litigation, from December 27, 2017 through January 24, 2018, is 20 hours. The total estimated lodestar for WB for this time period is \$17,500 consisting entirely of attorney time.

<b>Name</b>	<b>Title</b>	<b>Hours</b>	<b>Rate</b>	<b>Lodestar</b>
Michael Burrage	Sr. Partner	20	\$875	\$17,500

16. WB lodestar figures are based on its billing rates, which do not include charges for expense items. Expense items are billed separately and such charges are not duplicated in the billing rates.

17. Because WB is a relatively small law firm, WB was necessarily precluded from working on other cases and pursuing otherwise available opportunities due to its dedication of time

and effort to the prosecution of this Litigation against XTO. This case was filed almost two years ago in January 2016, and has required the devotion of substantial time, manpower and resources from Class Counsel over that period. Further, WB has spent a substantial amount of time and effort in negotiating and preparing the necessary paperwork related to the Settlement with Defendant. Moreover, numerous time limitations have been imposed on WB throughout the course of this Litigation. The schedules of the courts, witnesses and clients were accommodated on a regular basis by WB. A case of the size and complexity of this one deserves and requires the commitment of a large percentage of the total time and resources of firms the size of those of Class Counsel and works a significant hardship on them over the course of over multiple years. Further, WB had to forego taking on additional cases because of this litigation and the burden it placed on WB's time and resources. While I cannot identify the specific cases without violating attorney client and work product privileges, I can state that, during the period this case has been pending, WB investigated and considered pursuing multiple cases that it ultimately was not able to pursue due to the time and resource constraints imposed by this case.

Dated: December 20, 2017

A handwritten signature in black ink, appearing to read "Michael Burrage", with a stylized flourish at the end.

Michael Burrage  
WHITTEN BURRAGE