IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD P. MARBURGER, Trustee of the Olive M. Marburger Living Trust and **THIELE FAMILY, LP**,	)	
Plaintiffs,	)	
v.	)	Civil Action No.2:15-cv-00910-CRE
XTO ENERGY INC.,	)	
Defendant.	)	

MOTION FOR COUNSEL FEES,
AWARD OF COSTS AND EXPENSES AND INCENTIVE AWARDS

Through this motion pursuant to Federal Rules of Civil Procedure 54(d) and 23(h), Class Counsel seeks an award of attorneys' fees, an award of costs and expenses and the granting of incentive awards to the representative plaintiffs and states as follows:

1. Class Counsel incorporates by reference the Brief in Support of Motion for Counsel Fees, Award of Costs and Expenses and Incentive Awards (the "Class Counsel Brief").

2. As set forth more fully in the Class Counsel Brief,

(a) Through this action, Class Counsel obtained a settlement fund of $11,010,000, nearly all of the past damages that the class could have established at trial;

(b) Class Counsel is entitled to an attorneys' fee calculated as a percentage of the $11,010,000 common fund that was created by the settlement with defendant XTO Energy Inc.;

(c) Class Counsel seeks attorneys' fees in the amount of 30% of the common fund;

(d) The request for a 30% attorneys' fee complies fully with and satisfies the standards for awarding counsel fees in common fund settlements set forth in *Halley v. Honeywell International, Inc.*, 861 F.3d 481 (3d Cir. 2017), *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190 (3d Cir. 2000), and *In re Diet Drugs*, 582 F.3d 524 (3d Cir. 2009), and is less than the normal attorneys' fee of 33.33% of the $11,010,000 settlement fund; and

(d) A lodestar crosscheck of the percentage-of-fund fee award confirms that the 30% fee is in the normal range of requests for counsel fees from similar settlements.

3. As also set forth more fully in the Class Counsel Brief, Class Counsel incurred reasonable and necessary, but unreimbursed, costs and expenses prosecuting this action in the amount of $205,746.65. Class Counsel also expects to incur additional fees and charges of $10,200.00 for settlement administration and data services.

4. Class Counsel seeks a reasonable incentive award of $5,000.00 for each of the two class representatives.

WHEREFORE, for the foregoing reasons and as set forth in the Brief in Support of Motion for Counsel Fees, Award of Costs and Expenses and Incentive Awards, Class Counsel respectfully requests that this Court enter the attached Order granting attorneys' fees in the amount of $3,303,000.00; costs and expenses in the amount of $205,746.65; additional costs and expenses in the amount of $10,200.00 for settlement administration and data services; and incentive awards in the amount of $5,000.00 to each of the representative plaintiffs, Richard P. Marburger and Thiele Family, LP.

Dated: February 28, 2018

/s/ David A. Borkovic

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Counsel Fees, Award of Costs and Expenses and Incentive Awards was served this 28th day of February, 2018, upon all counsel of record through the Court's electronic filing system to:

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