

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

CHIEFTAIN ROYALTY COMPANY	)	
and CASTLEROCK RESOURCES, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 18-cv-00054-JFH-JFJ
	)	
BP AMERICA PRODUCTION COMPANY,	)	
	)	
Defendant.	)	

**DECLARATION OF MEDIATOR WILLIAM C. HETHERINGTON, JR.**

I, WILLIAM C. HETHERINGTON, JR., upon personal knowledge and pursuant to 28 U.S.C. §1746, declare as follows:

1. I was selected by the parties to mediate the above-entitled action and did so as an independent mediator. The mediation resulted in a settlement.
2. While the mediation process is confidential, the parties have authorized me to inform the Court of the matters set forth below, to be used in support of Plaintiffs’ Motion for Final Approval of Class Settlement.
3. My statements and those of the parties during the mediation are subject to a confidentiality agreement, and I do not intend to waive that agreement. I make this Declaration based on personal knowledge and am competent to so testify.

**QUALIFICATIONS**

4. A true and correct copy of my curriculum vitae and biographical information is attached hereto as Exhibit A.
5. As my biographical information indicates, I have served as a trial judge and appellate judge in Oklahoma. I served as Judge on the Oklahoma Court of Civil Appeals from 2009 until September 2, 2016. Prior to that time, I served as a trial District Judge in Cleveland

County, Oklahoma beginning in 1992 and as a Special District Judge 1981 to October 1985. Between 1985 and 1992 I was in private practice. During my District Court Judicial tenure, I had the opportunity to oversee many class action cases, including conducting settlement fairness proceedings and class certification proceedings.

6. As explained herein, based on my experience as a judge and mediator, it is my opinion that the Settlement in this case is fair, reasonable, and adequate.

**THE SETTLEMENT PROCESS WAS THOROUGH, FAIR, AND ARM'S-LENGTH**

7. Before the mediation, the parties provided to me and exchanged with each other extensive, confidential legal briefing regarding class certification, merits, and damages issues supported by evidence and expert opinions. Based on these submissions and discussions during the mediation, I concluded that Class Counsel had performed a thorough examination of the factual discovery and payment data and, with the aid of experts, analyzed it to determine appropriate case valuations. Class Counsel was current and well informed on the law and provided legal research and analysis of Oklahoma law, federal law, and the law of other states. And, Defendant was cooperative in producing massive amounts of confidential information to enable Class Counsel to assess the case, and counsel for Defendant had performed considerable work in preparation for the mediation.

8. The mediation occurred on March 3, 2021. The participants included: Plaintiffs' Counsel, Brad Beckworth, Drew Pate, Trey Duck, Pat Ryan, Jason Ryan, Paula Jantzen, Robert Barnes, Patti Lewis, Emily Kitch, and Michael Burrage; Defendant through its counsel, Mark Walker. Plaintiffs and Class Representatives, Robert Abernathy and Robert Gonce, participated as well.

9. At the beginning of the mediation session, I asked detailed questions of both sides to expose their strengths and weaknesses, as well as to clarify where substantial disputes

on class certification, liability, damages, and certain defenses still existed. The parties were cooperative and professional throughout this process.

10. At the conclusion of the all-day mediation on March 3, 2021, the parties tentatively agreed upon an amount for the settlement subject to further negotiations to attempt to reach an agreement on the remaining material terms of settlement.

11. After presiding over the mediation process in this case, I am convinced that the parties' settlement is the product of vigorous and independent advocacy and arm's-length negotiations conducted in good faith. There was no collusion between the parties.

**THE \$15.0 MILLION SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

12. The parties exchanged massive amounts of data for experts to analyze. However, considerable differences continued to exist between the parties on liability, damages, and statute of limitations.

13. For example, the parties presented opposing, good faith arguments as to BP's duty, under Oklahoma oil and gas law, to pay statutory interest on certain types of payments.

14. Prior to the Settlement, there were numerous pending litigation issues, including substantial outstanding discovery disputes, that would have long delayed the resolution of the case. And, the dispute settled prior to class certification, which can often be a substantial hurdle for plaintiffs. Further, following certification, Class Representatives and Class Counsel would still have been required to file, respond to, and win motions for summary judgment and ultimately succeed at trial—all for an unknowable amount of money, if any, to be awarded by an unknown jury.

15. Throughout the mediation process, I developed an understanding of the dispute, the respective positions of the parties, and the relative strengths and weaknesses of those positions, as well as the risks, rewards, and costs of continued litigation and inevitable appeal.



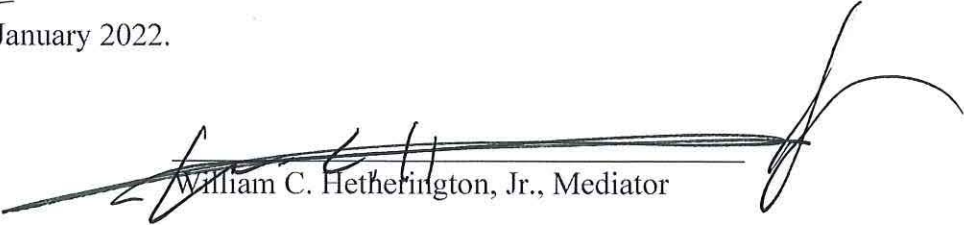
16. Based on my knowledge of the issues in dispute, my review of the substantial factual and legal materials presented before and at the mediation, the rigor of the negotiations, the relative strengths and weaknesses of the parties' positions, and the benefits achieved in the Settlement, I believe that the terms of the \$15.0 million settlement are fair, adequate, reasonable, and in the best interests of the Class. This is an outstanding result for the Class.

17. It is apparent from the submissions and presentations made by Class Counsel before and during the mediation session, as well as from my numerous discussions with them, that Class Counsel performed a thorough examination of the documents and data produced in this litigation. It is also my opinion that Class Counsel performed substantial work and effort in preparing their case for mediation and in presenting their claims in such a way to produce a valuable settlement for the Class.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

FURTHER AFFIANT SAYETH NOT.

Dated this 12<sup>th</sup> day of January 2022.

  
\_\_\_\_\_  
William C. Hetherington, Jr., Mediator

# **EXHIBIT A**

**EXHIBIT A**

**CIRRICULUM VITAE**

**WILLIAM CLARK HETHERINGTON, JR. (BILL)**

301 E. Eufaula St.  
Norman, Oklahoma 73069  
(405) 329-6600 (office)

**ACADEMIC BACKGROUND**

Graduate, Norman High School - 1965

Graduate, University of Oklahoma - January 1970  
Degree: B.B.A. Major - Petroleum Land Management  
Honored as Outstanding Junior Cadet, Army R.O.T.C. - 1968  
Dean's Honor Roll

Graduate, Oklahoma City University School of Law - 1979  
Degree: Juris Doctorate  
Faculty Honor Roll, Oklahoma City University School of Law  
Phi Delta Phi Legal Fraternity Officer - 1978, 1979  
Student Board of Governors

Graduate, National Judicial College - General  
Jurisdiction – 1983

Completed, "Mediating The Litigated Case", Straus Institute for Dispute  
Resolution Program, Pepperdine University - 2016

**BUSINESS & PROFESSIONAL**

Part Owner, Manager, Hetherington Insurance Agency 1969 to 1976;  
Home builder, developer, real estate - 1969 to 1977;  
General Practice of Law - 1979 to 1982;  
Special District Judge, Cleveland County, Oklahoma - 1982 to October 1985;  
Private Practice of Law - October 1985 to August, 1992;  
Cleveland County District Judge, Office No. 1, Judicial District No. 21 August,  
1992 to 2009; Chief Judge in Cleveland County six terms;  
Received Governor's Commendation for achievement by serving as an  
appellate panel member for the Temporary Court of Criminal Appeals Judicial

District 21;  
Past President Oklahoma State Judicial Conference;  
Past Presiding Judge South Central Judicial Administrative District;  
Past Oklahoma Bar Association Judicial Conference Delegate;  
Past Member Oklahoma State Judicial Conference Legislative Committee;  
Trial Judge Presiding over 400 trials;  
Appointed to the Oklahoma Court of Civil Appeals 2009 to September 2016;  
Elected Chief Judge Oklahoma Court of Civil Appeals 2015;  
Twenty-Eight years of service to the Oklahoma Judicial Branch.  
Currently Active Retired Judicial Status and Chairman – Oklahoma Judicial Ethics Advisory Panel.

### **PROFESSIONAL & CIVIC AFFILIATIONS**

1. Member, Oklahoma Bar Association and Cleveland County Bar Association; admitted to practice in Oklahoma, United States District Court, Western District of Oklahoma and United States Tax Court. Master member emeritus Luther Bohanon American Inn of Court and past President.
2. Past Board of Directors, City National Bank and Trust Company of Norman; past Board of Directors, Norman Regional Hospital Foundation; past Board of Directors and Vice Chair, Cleveland County Citizen's Advisory Committee to Department of Human Services, Child Welfare Division; past Advisory Board Member, Norman Alcohol Information Counsel. Life Member Aircraft Owner and Pilots Association.
3. Member, President's Associates, Oklahoma University; OU Alumni Association and Sooner Club; Past Board of Directors, Norman Lion's Club 1974 to 1976;
4. National Director, Norman Home Builders Association 1974 through 1977; President, Norman Home Builders Association 1976; Co-Chairman, Norman Community Development Block Grant Program 1975; past Board of Directors, Norman Chamber of Commerce; past United Way of Norman Board 1974 to 1976; past Officer, Norman Independent Insurance Agents Association.
5. Past Senior Warden (Chairman), St. John's Episcopal Church Vestry Board. Vestry Board Member two terms; Current Board of Trustees

Member St. John's Foundation.

6. Two Terms Executive Council, Cleveland County Bar Association.
7. Past youth soccer coach, Norman Youth Soccer Association.
8. Many years as frustrated actor and singer in Norman Sooner Theatre Follies and Mystery Dinner Theatre.
9. Member of "Almost Outlaws" three-man band with Lindsay Bailey, local Norman attorney and Dr. Bruce Remy.

### **PERSONAL**

Age 74

Born, Oklahoma City, Oklahoma, February 21, 1947, Norman resident 73 years.

Married: Susan Wright Hetherington

Children: Shea Nicole Hetherington Barakatt, William C. Hetherington, III, and Dr. Kellie J. Hetherington

Grandchildren: Melanie L. Hetherington, Hunter Males, and William C. Hetherington IV

Parents: Clark & Marian Hetherington, Norman, Oklahoma and West Palm Beach, Florida (Deceased)

Brother: Steven K. Hetherington, Edmond, Oklahoma

### **BIOGRAPHICAL INFORMATION-DISTRICT JUDGE BILL HETHERINGTON (Now Active Retired Status)**

Judge Hetherington was born in Oklahoma City in February, 1947; resident of Norman, Oklahoma for seventy-three years and a graduate of



Norman High School, University of Oklahoma and received his Juris Doctorate degree in 1979 from the Oklahoma City University School of Law. Judge Hetherington served on the Alumni Board of Trustees of the OCU School of Law through the end of his term in 2004.

Judge Hetherington's judicial career began in 1982 as a Special District Judge. He retired from the bench and entered private practice in 1986 through 1991. He was appointed District Judge, Office No. One, Cleveland County in 1992. He was re-elected to five four-year election terms, unopposed. Judge Hetherington has served the Judicial Branch as a District Judge since that time and during his tenure as a District Judge has served as Chief Judge, Judicial District 21, Cleveland County, for seven terms and was elected by his peers as Presiding Judge of the South Central Administrative Judicial District serving in that capacity during 2001 and 2002. Judge Hetherington also served on the Executive Board of the Oklahoma State Judicial Conference for six years and as President of the Conference in 2000.

As one of three District Judges sitting in Cleveland County, Judge Hetherington shared both civil and criminal felony caseload dockets with then District Judge Tom Lucas and District Judge Lori Walkley. Judge

Hetherington has extensive experience in handling mass tort litigation, having been the assigned Judge in the State of Oklahoma Attorney General Tobacco case and Special Judicial Discovery Master, AG pharmaceutical litigation, several oilfield class-action cases and was the assigned Judge in the class action tort cases involving the Oklahoma Wal-Mart employees and the “Hepatitis C” cases out of central Oklahoma. He was assigned Judge and responsible for Judicial administration of the Cleveland County Community Corrections Intervention system. He designed and implemented the Cleveland County Mental Health Court, and was co-assigned Judge with Judge Jequita Napoli.

In 2000, Judge Hetherington was nominated by the Judicial Nominating Commission as one of three nominees to then Governor Keating for appointment consideration to the Oklahoma Supreme Court.

Judge Hetherington serves as visiting lecturer at the University of Oklahoma School of Law and is a master member emeritus and past President of the Luther Bohanon American Inn Of Court.

**Subject:** Activity in OKND case 4:18-cv-00054-JFH-JFJ Chieftain Royalty Company, et al v. BP America Production Company - Declaration

**Date:** Friday, January 21, 2022 at 5:33:48 PM Central Standard Time

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U.S. District Court

U.S. District Court for the Northern District of Oklahoma

### Notice of Electronic Filing

The following transaction was entered by Beckworth, Bradley on 1/21/2022 at 5:33 PM CST and filed on 1/21/2022

**Case Name:** Chieftain Royalty Company, et al v. BP America Production Company

**Case Number:** [4:18-cv-00054-JFH-JFJ](#)

**Filer:** Castlerock Resources, Inc.  
Chieftain Royalty Company

**Document Number:** [166](#)

#### Docket Text:

**[DECLARATION Declaration of Mediator William C. Hetherington, Jr. by Castlerock Resources, Inc., Chieftain Royalty Company \(With attachments\) \(Beckworth, Bradley\)](#)**

#### 4:18-cv-00054-JFH-JFJ Notice has been electronically mailed to:

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**4:18-cv-00054-JFH-JFJ Notice has not been electronically mailed to:**

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**Document description:**Main Document

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**Document description:**Exhibit A - Heatherington Curriculum Vitae

**Original filename:**n/a

**Electronic document Stamp:**

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