IN THE SUPREME COURT OF TEXAS

No. 13-0597

PLAINS EXPLORATION & PRODUCTION COMPANY,
Petitioner/Cross-Respondent,

v.

TORCH ENERGY ADVISORS INC., et al.,
Respondents/Cross-Petitioners.

On Petition for Review from the
First Court of Appeals, Houston, Texas
Court of Appeals No. 01-12-00698-CV

BRIEF AMICUS CURIAE OF PACIFIC LEGAL FOUNDATION IN SUPPORT OF PETITIONER

WENCONG FA
Tex. Bar No. 24087487
Counsel of Record
Pacific Legal Foundation
930 G Street
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747
Email: wfa@pacificlegal.org

Attorney for Amicus Curiae Pacific Legal Foundation

IDENTITY OF PARTIES AND COUNSEL

1. Petitioner/Cross-Respondent Plains Exploration & Production Company

Represented by:

Mr. Scott A. Brister
ANDREWS KURTH LLP
111 Congress, Suite 1700
Austin, TX 78701
sbrister@andrewskurth.com

Mr. David M. Gunn
Mr. William Robert Peterson
BECK REDDEN LLP
1221 McKinney Street, Suite 4500
Houston, TX 77010
dgunn@beckredden.com

Mr. Billy Shepherd
Mr. David Wayne Clawater
Mr. Stephen R. Bailey
SHEPHERD, SCOTT, CLAWATER & HOUSTON, LLP
2777 Allen Parkway, 7th Floor
Houston, TX 77019
bshepherd@sschlaw.com
wclawater@sschlaw.com
sbailey@sschlaw.com

2. Respondents/Cross-Petitioners Torch Energy Advisors Incorporated, et al.

Represented by:

Mr. Kevin H. Dubose
ALEXANDER DUBOSE JEFFERSON & TOWNSEND LLP
1844 Harvard Street
Houston, TX 77008
kdubose@adjtlaw.com

Ms. Harriet O'Neill
LAW OFFICE OF HARRIET O'NEILL, P.C.
919 Congress Avenue, Suite 1400
Austin, TX 78701
honeill@harrietoneilllaw.com

Mr. Michael D. Conner
Mr. Eric Scott Lipper
Ms. Whitney Rawlinson
HIRSCH & WESTHEIMER, P.C.
1415 Louisiana, 36th Floor
Houston, TX 77002
mconner@hirschwest.com
elipper@hirschwest.com
wrawlinson@hirschwest.com

Mr. Barry F. Cannaday
DENTONS US, LLP
2000 McKinney Avenue, Suite 1900
Dallas, TX 75201
barry.cannaday@dentons.com

TABLE OF CONTENTS

Page

Page

TABLE OF AUTHORITIES

Page

Cases

Page

Page

Rules

Miscellaneous

Page

INTEREST OF AMICUS

Pacific Legal Foundation was founded in 1973 and is widely recognized as the largest and most experienced nonprofit legal foundation of its kind. PLF engages in research and litigation over a broad spectrum of public interest issues at all levels of state and federal courts, representing the views of thousands of people nationwide who believe in limited government, individual rights, and free enterprise.

PLF's Free Enterprise Project defends the freedom of contract, including the right of parties to have their disputes resolved by the terms of a contract rather than by abstract notions of justice. To that end, PLF has participated in many important contract cases around the United States. *See, e.g.*, *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740 (2011); *El Paso Field Services, L.P. v. MasTec North America, Inc.*, 389 S.W.3d 802 (Tex. 2012); *Chochorowski v. Home Depot U.S.A.*, 404 S.W.3d 220 (Mo. 2013). PLF believes that its experiences will allow it to provide this Court with a unique perspective on the negative consequences that will result from the lower court's decision.

INTRODUCTION

The decision below injected an intolerable amount of risk into countless contracts. Although the parties here disagree on the plain

meaning of the relevant contract provisions, they agree on the fundamental principle that the contract should govern their dispute. Yet the court of appeals held that this case should be governed by equitable claims, and remanded the case to a jury so that it could decide the rightful owner of 43 million dollars under the amorphous standard of "equity and good conscience." *Torch Energy Advisors Inc. v. Plains Exploration & Prod. Co.*, 409 S.W.3d 46, 59 (Tex. App.–Houston [1st Dist.] 2013, pet. filed); *see Stonebridge Life Ins. Co. v. Pitts*, 236 S.W.3d 201, 204 (Tex. 2007).

That is a dangerous holding. As this case shows, equity should serve as a gap filler and not supplant the contract. The lower court's decision subjects contracting parties to the unnecessary risk that jurors will decide standard contract claims using vague notions of abstract justice. It improperly limits the role of determining a meeting of the minds using objectively verifiable evidence, and improperly expands the role of subjective thoughts verifiable only by some of the parties involved. It threatens the speedy resolution of contract claims by forcing parties into a long process of trial and discovery.

The decision below comes at a time in which oil exploration is booming in Texas. In the short term, the decision may hamper jobs,

investments, and the like. In the long term, the decision threatens freedom of contract as a whole. This Court should grant the petition and reverse.

ARGUMENT

I

THE DECISION BELOW WILL HAVE A NEGATIVE IMPACT ON TEXANS, BUSINESSES, AND THE JUDICIAL SYSTEM

A. The Court of Appeals Improperly Remanded This Case to a Jury to Decide the Outcome Based on Vague Notions of Abstract Justice

The court below remanded this case to a jury so that jurors, guided by nothing more than equity and good conscience, could decide the fate of 43 million dollars. This holding was even stranger because the parties themselves argued that the contract should govern their dispute.

The court of appeals' decision expands the scope of equitable remedies beyond their properly confined roles as "gap fillers." *See Fortis Benefits v. Cantu*, 234 S.W.3d 642, 647 (Tex. 2007) ("[C]ontract rights generally arise from contract language; they do not derive their validity from principles of equity but directly from the parties' agreement." A contract "declares the parties rights and obligations,

which are not generally supplanted by court-fashioned equitable rules that might apply, as a default gap-filler, in the absence of a valid contract.").

Courts should preserve the fundamental role of private agreements in our economic system, resist the temptation to substitute policy for law, and leave the parties to their agreement. Supplanting the contract with equitable claims can severely weaken expectations—to the detriment of contract law as a whole. *See Spacek v. Maritime Ass'n*, 134 F.3d 283, 295 (5th Cir. 1998) (refusing to apply "equity-based theories of contract construction that deviate from contract law's traditional focus on the intent of the parties as determined by the objective manifestations of that intent contained in the language of the parties' agreement"), *abrogated on other grounds by Central Laborers' Pension Fund v. Heinz*, 541 U.S. 739 (2004).

Jurors will have little to guide them in deciding this multi-million dollar claim. To start, equitable claims generally ask jurors to determine the diligence of parties. But that determination is particularly difficult in a case, like this one, with complex questions of standing lurking in the background. All agree that Torch Energy Advisors Incorporated (Torch) had no standing to sue the government for breach of the leases.

Torch's Cross Petition for Review at 5, *Torch Energy Advisors Inc. v. Plains Exploration & Prod. Co.*, No. 13-0597 (Tex. Nov. 20, 2013) ("Torch could not have participated in the lawsuit; federal law dictates that only the current lessee (Plains) had standing to sue."). Torch's inability to pursue a claim against the government hampers its ability to proceed in an equity claim against Plains. A jury in an equitable trial will have to decide if Torch was diligent in trying to get the 43 million dollar claim, and whether it should recover from the government indirectly when it was barred from doing so directly.

B. A Money-Had-And-Received Claim Should Not Supplant the Contract Claims at the Heart of This Case

Money-had-and-received claims present equally complex and amorphous issues. In Texas, a jury in a traditional money-had-and-received action must pick a winner based on "equity and good conscience." *Stonebridge*, 236 S.W.3d at 204. The United States Supreme Court provides no better guidance. *See United States v. Jefferson Electric Mfg. Co.*, 291 U.S. 386, 403 (1934) (using "abstract justice" as the guide).

Torch asks the Court to adopt this malleable standard. *See* Br. for Appellant at 36, *Torch Energy Advisors Inc. v. Plains Exploration &*

Prod. Co., 409 S.W.3d 46 (Tex. App.–Houston [1st Dist.] 2013, pet. filed) (No. 01-12-00698-CV). But even for Torch, this was a secondary argument, *see id*. at 34 ("Alternatively, the trial court erred in denying the non-contractual claims based on an incorrect application of the 'economic loss' rule."), and sometimes not even that. *See* Reply Br. for Appellant at 20, *Torch*, 409 S.W.3d 46 ("In the further alternative, the trial court erred in its application of the economic loss rule."). Both parties instead ask that the words of the contract, which "limits substantially the bounds of legitimate disagreement," *Morta v. Korea Ins. Corp.*, 840 F.2d 1452, 1459 (9th Cir. 1988), be the yardstick for doing justice between them.

There are good reasons for narrowing the bounds of legitimate disagreement to something other than "abstract justice." The range of results stemming from abstract justice are endless, and undermine fundamental principles of contract law. *See Marlin Assoc. v. Trinity Universal Ins. Co.*, 226 S.W.2d 190, 194 (Tex. Civ. App.–Dallas 1949, no writ) ("Neither abstract justice nor the rule of liberal construction justifies the creation of a contract for the parties which they did not make themselves or the imposition upon one party to a contract of an obligation not assumed.") (citation omitted).

This is even true in Texas, where this Court has helpfully stated its goals of construing contracts with "utilitarian" principles in mind. *Reilly v. Rangers Mgmt., Inc.*, 727 S.W.2d 527, 530 (Tex. 1987). This utilitarian approach has limited impact on judicial analysis, though, because courts must look to objective intent, as expressed in the document, rather than subjective intent, which may not have been expressed at all. *See Matagorda Cnty. Hosp. Dist. v. Burwell*, 189 S.W.3d 738, 740 (Tex. 2006) (per curiam). As a consequence, Texas courts are reluctant to allow equitable principles to intrude on contract claims. *See SAS Inst., Inc. v. Breitenfeld*, 167 S.W.3d 840, 841 (Tex. 2005) ("The intent of a contract is not changed simply because the circumstances do not precisely match the scenarios anticipated by the contract."); *see also Gen. Am. Indem. Co. v. Pepper*, 161 Tex. 263, 266 (1960) (contractual insurance coverage of an airline passenger "on a regularly scheduled passenger trip" cannot be extended to cover the plaintiff's injuries that occurred in the terminal during a layover for changing planes before boarding the aircraft); *Houston Med. Testing Servs., Inc. v. Mintzer*, 417 S.W.3d 691, 699-700 (Tex. App.–Houston [14th Dist.] 2013, no pet.) (refusing to allow a jury to award equitable damages because the terms of the contract governed the parties'

remedies). Interpreting the contract in a way that replaces the common and public meaning of language with "notions of reasonableness/equity both undermines parties' expectations regarding how courts will interpret their agreements and undermines the very reason why parties enter into contracts—that is to bind each other's future behavior in a manner that is predictable and commercially useful." Aaron D. Goldstein, *The Public Meaning Rule: Reconciling Meaning, Intent, and Contract Interpretation*, 53 Santa Clara L. Rev. 73, 133 (2013).

This Court should clarify that "equity and good conscience" must be assessed using an objective standard. Such a standard instructs the jury to determine if a reasonable person would say that the money belongs to one party—rather than decide the case based on the jurors' individualized reflections on equity. An objective standard would preserve expectations and reduce risk by narrowing the scope of possible outcomes.

And an objective standard would be closer in line with how courts in other states have treated money-had-and-received claims. Oklahoma courts, for example, entertain those claims typically in tax refund or fee refund cases. The government, in those cases, has money that clearly belongs to the plaintiff—a matter that can be proven by objective

evidence. *See, e.g.*, *Clay v. Indep. Sch. Dist. No. 1 of Tulsa Cnty.*, 935 P.2d 294, 302 (Okla. 1997) (tax refund); *Sholer v. State ex rel. Dept. of Pub. Safety*, 945 P.2d 469, 475 (Okla. 1995) (fee refund).

The objective standard would also be in line with unjust enrichment actions in general. Those claims arise primarily in two narrow circumstances. First, a plaintiff may claim unjust enrichment in cases in which the defendant accidentally received a tangible item belonging to the plaintiff or stole from the plaintiff. *ConFold Pac. Inc. v. Polaris Indus. Inc.*, 433 F.3d 952, 957-58 (7th Cir. 2006). Second, a plaintiff may claim unjust enrichment where the plaintiff had rendered a service to the defendant in circumstances in which one would reasonably expect to be paid, though for good reason there was no express contract. *Id.* at 958.

Torch should not prevail on its "money-had-and-received" claim in this case because the circumstances are not analogous to a confused taxpayer, an errant shipment, or a doctor performing an emergency operation to an unconscious patient who now refuses to pay. Typical unjust enrichment cases ask a jury to decide the truthfulness of plaintiff's allegations; this case, in contrast, asks a jury to decide the fairness of plaintiff's claim.

C. The Decision Below Allows Jurors to Consider Evidence Outside the Type Normally Considered in a Contract Claim

Contracts memorialize a meeting of the minds at the time that the parties signed the contract. "The written words of the contract afford greater certainty of intention, and more accurate compliance with and performance of the terms of the contracts by the parties thereto than do the retrospective, impassive conclusions of a court of equity." *Koch v. H & S Dev. Co.*, 249 Miss. 590, 630 (1964) (cited approvingly in *Reynolds-Penland Co. v. Hexter & Lobello*, 567 S.W.2d 237, 239 (Tex. Civ. App.–Dallas 1978, writ dism'd)). Contract law thus embeds the basic truth that "if we take autonomy seriously as a principle for ordering human affairs, . . . people must abide by the consequences of their choices." *Morta*, 840 F.2d at 1460 (citing Charles Fried, *Contract as Promise* 1, 113 (1981)); *see also Wood Motor Co. v. Nebel*, 238 S.W.2d 181, 185 (Tex. 1951) ("[M]en of full age and competent understanding shall have the utmost liberty of contracting . . . .").

An equitable trial, by contrast, considers the sort of evidence not admissible in a standard contract case. Jurors would consider not just the objective intent of the parties, as evidenced by the words of the contract, but also what the parties subjectively thought, as sought to be

proven by various forms of extrinsic evidence. *See, e.g.*, *Casa El Sol-Acapulco, S.A. v. Fontenot*, 919 S.W.2d 709, 716-19 (Tex. App.–Houston [14th Dist.] 1996, writ dism'd by agr.) (identifying several equitable theories improperly submitted to a jury, but holding that certain factual issues, even in equity, should be decided by a jury).

This undercuts normal expectation interests by creating a perverse incentive for parties smart enough to cover their bases. An email from the CEO to the CFO of the same corporation ascribing some particular meaning to a contract is not admissible in a traditional contract case. *See Hubacek v. Ennis State Bank*, 159 Tex. 166, 168 (1958) (extrinsic evidence inadmissible if the contract is unambiguous); *Marine Creek Partners, Ltd. v. Caldwell*, 926 S.W.2d 793, 796 (Tex. App.–Fort Worth 1996, no writ) ("considerable" amount of subjective intent irrelevant to contract interpretation because "[w]hat counts is the objective intent of the parties, as expressed in the writing"). However, it may be admissible in an equity trial. *See* Tex. R. Evid. 801(e)(1)(B) (prior consistent statement by witness offered to rebut a charge of recent fabrication or improper influence or motive); *Shaver v. Schuster*, 815 S.W.2d 818, 824 (Tex. App.–Amarillo 1991, writ dism'd) ("[W]hen a document is ambiguous, parol evidence which is consistent with the writing is

admissible to explain the ambiguity, but not to vary the document's terms.") (citing *Remington Rand, Inc. v. Sugarland Industries*, 153 S.W.2d 477, 483 (Tex. Comm'n App. 1941)).

Parties to a contract will be encouraged to plant favorable facts when they create the contract, so that they have the potential of harvesting them if the contract is later breached.[1] Jurors sitting in equity can consider "self-serving testimony offered by partisan witnesses whose recollection is hazy from passage of time and colored by their conflicting interests." *Trident Center v. Connecticut General Life Ins. Co.*, 847 F.2d 564, 569 (9th Cir. 1988). Post-hoc evidence about unexpressed feelings, thoughts, or suppositions of negotiators are not objectively demonstrable—and cannot be objectively disproved.

Although a party that, in hindsight, signed an unfavorable contract would presumably not wish to abide by the familiar contract principle that "[w]ise or not, a deal is a deal," *United Food and Commercial Workers Union v. Lucky Stores, Inc.*, 806 F.2d 1385, 1386 (9th Cir.

---

[1] The risk is especially pronounced in complex commercial contracts. "In complex negotiated commercial contracts, it is difficult to assign a single intent to the language of a contract that was negotiated and drafted by numerous individuals on each side of the contract. If parties are litigating the interpretation of a contract in good faith, then those parties must not have had a single intent, at least in regard to the subject matter of their dispute." Goldstein, *supra*, at 103.

1986), contract law developed specifically to determine rights when the parties are in conflict. *Wood Motor*, 238 S.W.2d at 185 ("[C]ontracts when entered into freely and voluntarily shall be held sacred and shall be enforced by Courts of justice."). "The law should allow willing and able parties to avoid a litigation toll-tax and agree to greater certainty in their dealings." *Italian Cowboy Partners, Ltd. v. Prudential Ins. Co. of America*, 341 S.W.3d 323, 352 (Tex. 2011) (Hecht, J., dissenting).

Even a California Supreme Court justice who originally favored liberal use of extrinsic evidence in contract cases quickly came to regret it. *Compare Pacific Gas & Elec. Co. v. G.W. Thomas Drayage & Rigging Co.*, 69 Cal. 2d 33, 39 (1968) (extrinsic evidence may be used to establish ambiguity), *with Delta Dynamics, Inc. v. Arioto*, 69 Cal. 2d 525, 531-32 (1968) (Mosk, J., dissenting) (noting that, although he joined the majority in *Pacific Gas* just four months earlier, "the trend has become so unmistakably ominous that [he] must urge a halt[.]").

D. The Decision Below Will Severely Burden the Court System

The "depreciation of the written word . . . exacts a high price." *Italian Cowboy Partners*, 341 S.W.3d at 352 (Hecht, J., dissenting).

The decision below, by improperly sending a case to a jury, unnecessarily increases expenses and delay.

When the cost of litigation increases, fewer litigants can afford to go to trial. Nathan L. Hecht, *The Vanishing Civil Jury Trial: Trends in Texas Courts and an Uncertain Future*, 47 S. Tex. L. Rev. 163, 166 (2005). Unacceptable unpredictability and risk appear to be contributing factors to this decline, as is the costly discovery phase. *Id.* at 173-74; *cf. National Union Fire Ins. Co. of Pittsburgh, PA v. CBA Indus. Inc.*, 907 S.W.2d 517, 520 (Tex. 1995) (When "there are no latent or patent ambiguities in the policies, there are no fact issues that merit discovery.").

If every case could so easily get to a jury, a party with weaker claims has an incentive to invent ambiguities to invoke "equity" and send the case to a jury. But there is no "deeper pockets" exception to contract law. Texas law values contractual freedom, *El Paso Field Services, L.P. v. MasTec North America, Inc.*, 389 S.W.3d 802, 811-12 (Tex. 2012), so enforcement of these agreements should "not be held hostage to delay, uncertainty, the cost of litigation, or the generosity of juries." *Morta*, 840 F.2d at 1460. This Court should reaffirm these principles by reversing the decision below.

II

THIS IS AN IMPORTANT ISSUE WITH STATEWIDE IMPLICATIONS

Leases like the one at issue in this case play an important role in Texas, *Texas Monthly Oil and Gas Statistics*, Railroad Commission of Texas (Sept. 29, 2014)[2] ("The Railroad Commission of Texas issued a total of 2,440 original drilling permits in August 2014 compared to 1,606 in August 2013."), drawing interest and investment from businesses nationwide and internationally. *See, e.g.*, James Burgess, *West Texas Now the Heart of America's Oil Boom*, Yahoo Finance (Sept. 23, 2014)[3] ("The Permian basin, now the nation's most productive, is churning out ever-increasing volumes of crude. As of September 2014, the Permian is producing 1.7 million barrels per day (bpd). That is more than double the 850,000 bpd the area saw in 2007."). PennEnergy Editorial Staff, *Cardiff Energy Obtains Oil and Gas Lease in Texas*, PennEnergy (Sept. 26, 2014)[4] (announcing that a U.S.

---

[2] *Available at* http://www.rrc.state.tx.us/all-news/092914a/.

[3] *Available at* http:finance.yahoo.com/news/west-texas/now-heart/americas-004800172.html.

[4] *Available at* http://pennenergy.com/articles/pennenergy/2014/09/cardiff-energy-obtains-oil-and-gas-lease-in-texas.html.

subsidiary of a company based in Vancouver, British Columbia, acquired a 468-acre oil and gas lease in Ballinger, Texas). Others may look to do so in the future.

Business activities of this sort bring a host of benefits, ranging from economic, Rick Jervis, *Lone Star State Could Become One of the Leading Oil Producers on the Planet,* USA Today (Jan. 15, 2014)[5] ("Ranch Owners who previously had only scrub bush and white-tailed deer on their property are leasing their land for millions of dollars a month."), to commercial, Dan O'Brien, *Analyst: Pa. Court Gives Ohio More Shale Potential,* The Business Journal (Jan. 9, 2014)[6] ("The amount of money being pumped into eastern Ohio because of shale exploration—billions of dollars to date—is sufficient to create a larger multiplier effect that affects a variety of businesses."), to educational. *See* Alana Rocha, *Midland ISD Developing "Petroleum Academy,"* The Texas Tribune (Sept. 17, 2014)[7] ("Pending school board approval, the

---

[5] *Available at* http://www.usatoday.com/story/news/nation/2014/01/15/texas-oil-boom-fracking/4481977/.

[6] *Available at* http://businessjournaldaily.com/drilling-down/analysts-pa-court-gives-ohio-more-shale-potential-2014-1-9.

[7] *Available at* http://www.texastribune.org/2014/09/17/midland-isd-developing-petroleum-academy/.

Midland school district will launch a pilot program in January for its 'petroleum academy' for high schoolers.").

The Court's decision, which determines the level of certainty that exists in standard oil leases, will have a profound influence on the economy. A contract decision that focuses on the words of the contract is both legally sound, and good public policy.

CONCLUSION

The chaos created by replacing objective standards of contract interpretation with equitable theories applied at the discretion of a jury was aptly described by the Court of Civil Appeals in *Reynold-Penland Co. v. Hexter & Lobello*:

> [A]ll contracts would be called into question as meaningless and uncertain, dependent upon the whims of a panacean court or a jury. If certainty of rights and obligations is the basic goal of contract law, this goal would be frustrated by making every option contract the subject of equitable discretion by both court and jury. The absurdity of such a rule is even more apparent where, as here, the contract is between experienced and sophisticated businessmen.

567 S.W.2d at 241-42.

For these reasons, the decision of the court of appeals should be reversed.

DATED: October 15, 2014.

Respectfully submitted,

WENCONG FA
Counsel of Record

/s/ Wencong Fa
WENCONG FA

Attorney for Amicus Curiae
Pacific Legal Foundation

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this document complies with the typeface requirement of TEX R. APP. P. 9.4(e), because it has been prepared in a conventional typeface no smaller than 14-point for text and 13-point for footnotes. This document also complies with the word-count limitations for TEX R. APP. P. 9.4(i), because it contains 3,461 words, excluding any parts exempted by TEX R. APP. P. 9.4(i).

/s/ Wencong Fa
WENCONG FA

CERTIFICATE OF SERVICE

I certify that on October 15, 2014, a true and correct copy of the foregoing BRIEF AMICUS CURIAE OF PACIFIC LEGAL FOUNDATION IN SUPPORT OF PETITIONER was forwarded to all counsel of record by the ProDoc eFile (2) electronic filing service provider, if registered; a true and correct copy of this document was also forwarded to all counsel of record, by email, addressed as follows:

Scott A. Brister
ANDREWS KURTH LLP
111 Congress, Suite 1700
Austin, TX 78701
sbrister@andrewskurth.com

David M. Gunn
William R. Peterson
BECK REDDEN LLP
1221 McKinney, Suite 4500
Houston, TX 77010
dgunn@beckredden.com

Billy Shepherd
David Wayne Clawater
Stephen R. Bailey
SHEPHERD, SCOTT, CLAWATER, HOUSTON, LLP
2777 Allen Parkway, 7th Floor
Houston, TX 77019
bshepherd@sschlaw.com
wclawater@sschlaw.com
sbailey@sschlaw.com

Kevin Dubose
ALEXANDER DUBOSE JEFFERSON & TOWNSEND LLP.
1844 Harvard Street
Houston, TX 77008
kdubose@adjtlaw.com

Harriet O'Neill
LAW OFFICE OF HARRIET O'NEILL, P.C.
919 Congress Avenue, Suite 1400
Austin, TX 78701
honeill@harrietoneilllaw.com

Barry F. Cannaday
DENTONS US, LLP
2000 McKinney, Suite 1900
Dallas, TX 75201-1858
barry.cannaday@dentons.com

Michael D. Conner
Eric Lipper
Whitney Rawlinson
HIRSCH & WESTHEIMER, P.C.
1415 Louisiana, 36th Floor
Houston, TX 77002
mconner@hirschwest.com
elipper@hirschwest.com
wrawlinson@hirschwest.com

/s/ Wencong Fa
WENCONG FA