

## **Exhibit D**

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

ROCK HILL DIVISION

Kevin Faile, Louis C. Roman, Alan R.	)	Civil Action No. 0:10-cv-2809-CMC
DePalma, and Brian Scott Craton, all	)	
individually and on behalf of all	)	
other similarly situated individuals,	)	
	)	<b>AFFIDAVIT OF</b>
Plaintiffs,	)	<b>M. MALISSA BURNETTE, ESQ.</b>
	)	<b>IN SUPPORT OF</b>
vs.	)	<b>DAVID E. ROTHSTEIN, ESQ.</b>
	)	
Lancaster County, South Carolina,	)	
	)	
Defendant.	)	
_____	)	
STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF RICHLAND	)	

PERSONALLY appeared before me M. Malissa Burnette who, after being duly sworn, deposes and states the following:

1. I am a partner in the firm of Callison, Tighe & Robinson, LLC in Columbia, South Carolina.
2. I graduated from the University of South Carolina School of Law in 1977. I was an attorney for the Governor of South Carolina from 1977-1979. I served as Chief of Staff for the Lieutenant Governor of South Carolina from 1979-1982. After managing the campaign for Attorney General Travis Medlock in 1982, I co-founded the law firm of Gergel & Burnette in

Columbia. In 1996, I co-founded the law firm of Burnette & Leclair, P.A., which in 2005 became Burnette & Rothstein, P.A. I merged my practice with Callison, Tighe & Robinson, LLC in August 2010 when I was invited to join the firm as a member.

3. I have been a Certified Specialist in Employment and Labor Law since 1993, a Certified United States District Court Mediator since 2010, have taught over fifty employment law CLE's, and have extensive experience in the field. I am admitted to practice in the United States District Court, the Fourth Circuit Court of Appeals and the United States Supreme Court. I am the co-author and editor of all four editions of Labor and Employment Law for South Carolina Lawyers, (S.C. Bar) In May 2011 I received the first Distinguished Lawyer Award from the South Carolina Bar's Employment and Labor Law Section.

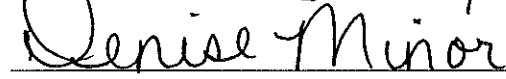
4. I have known and worked with David E. Rothstein for over ten years. We were law partners from 2005 through most of 2010. During that time I had the opportunity to closely observe his work habits and to interact with him on a daily basis. I can attest that he works diligently, efficiently and effectively for his clients. He is certainly well-qualified to handle a complex employment case such as representing Mr. Faile and his co-workers.

5. I have carefully reviewed Mr. Rothstein's fee petition, time records and cost records in the above-captioned case. His time records appear to be very detailed and explanatory of the services rendered. It is not surprising that he had to expend over 1000 hours over a 15-month period, given the amount and type of tasks involved. The costs seem to be appropriate for the magnitude of the case. Having worked in a two-lawyer firm for much of my own career, I can say that the time expended and the costs incurred in this case would be particularly burdensome for a solo practitioner.

6. My regular fee rate is \$300.00 per hour, but is higher in certain cases. In contingent fee cases, I normally agree with my client to a one-third fee if the matter is settled prior to litigation, and 40% if a case goes to court. I believe these hourly rates and contingency percentages are reasonable given my years of experience and the fees customarily charged in this area for this type of legal representation. Mr. Rothstein's \$300 per hour rate and a one-third contingency fee are within the range of fees that are consistent with his legal experience, and that are customary in the community for this type of legal work.

  
M. Malissa Burnette

SWORN and subscribed to before me  
this 23rd day of January, 2012.

  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: 2-11-2018