

**44<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute**  
**April 20, 2018 • Royal Sonesta Hotel Houston • Houston, TX**  
**April 20, 2018 • Live Webcast**

**Friday Morning, Apr. 20, 2018**

**Presiding Officer:**

**Jeff Weems**, Staff Weems LLP - Houston, TX

7:15 am In Houston Only	<b>Institute Registration Opens</b>  <i>Includes continental breakfast.</i>
8:05 am	<b>Welcoming Remarks</b>
8:15 am 1.00 hr ethics	<b>Protecting Client Information-Cyber Protection Duties as an Attorney</b>  <p>Explore the ethical and legal obligations of attorneys and law firms to protect client data and communications from the latest cybersecurity threats.</p> <p>William R. Daugherty, Baker &amp; Hostetler LLP - Houston, TX  Andy Sawyer, Locke Lord LLP - Dallas , TX</p>
9:15 am 1.00 hr	<b>Case Law Update</b>  <p>Review recent decisions dealing with oil and gas leases, royalties, mineral conveyances, joint operating agreements, state regulation, and related topics.</p> <p>Owen L. Anderson, The University of Texas School of Law - Austin, TX</p>
10:15 am	<b>Break</b>
10:30 am 0.75 hr	<b>Proration Units: "You Keep Using that Word, I Don't Think it Means What You Think it Means!"</b>  <p>Hear the history and development of the proration unit as a regulatory tool, and the consequences of importing the term into oil and gas leases and contracts.</p> <p>Robert G. Hargrove, Osborn, Marsland &amp; Hargrove - Austin, TX  Co-Author:  Ana Maria Marsland, Osborn, Marsland &amp; Hargrove - Austin, TX</p>
11:15 am 0.75 hr	<b>Surface Use: The Dominant Estate, Reasonable Use, and Due Regard</b>  <p>Discuss recent opinions defining the distinction between the surface and mineral estates; history of the mineral owner's implied surface-use right and its limitations; accommodation doctrine opinions, including recent developments and the questions they raise; the roles of the Railroad Commission and municipalities; the temporary-injunction tip-off; and practical tips.</p> <p>David E. Jackson, Jackson Sjoberg &amp; Townsend, LLP - Austin, TX</p>
12:00 pm In Houston Only	<b>Pick Up Lunch</b>  <i>Included in registration.</i>

## Friday Afternoon, Apr. 20, 2018

### LUNCHEON PRESENTATION

	<b>Thank You to Our Luncheon Sponsor</b>  Locke Lord LLP
12:20 pm 0.75 hr	<b>An Interview with Professor Ernest E. Smith</b>  An interview with Professor Ernest E. Smith about his views on key developments of oil, gas and mineral law in Texas during his years of teaching at The University of Texas School of Law. A range of topics will be covered, likely including conveyancing issues such as “floating” v. “fixed” royalty and legal issues, both traditional and new, that arise in the context of horizontal well development.  Moderator: Carroll G. Martin, Scott Douglass & McConnico LLP - Austin, TX Ernest E. Smith, The University of Texas School of Law - Austin, TX
1:05 pm	<b>Break</b>
1:20 pm 0.50 hr 0.25 hr ethics	<b>Clarifying the Duty of Executive Right Holders</b>  A review of the law after <i>Texas Outfitters Limited v. Nicholson</i> defining the nature of severed executive rights and the duties owed by the executive to non-participating royalty and non-executive mineral interest owners.  Monika U. Ehrman, The University of Oklahoma College of Law - Norman, OK
1:50 pm 0.50 hr	<b>Implied Covenants</b>  Follow an outline of the law of implied covenants, including duties imposed, standards applied, and remedies available.  Elizabeth "Becky" Miller, Scott Douglass & McConnico LLP - Austin, TX
2:20 pm 0.75 hr	<b>PSA and Allocations Wells</b>  Review of the evolution of the regulatory and land-title process for PSA and Allocation Wells.  Michael E. McElroy, McElroy, Sullivan, Miller & Weber, LLP - Austin, TX
3:05 pm	<b>Break</b>
3:15 pm 0.75 hr	<b>We're Not Out of the Woods Yet: When is a Contract a Contract in the Bankruptcy Court?</b>  Hear a discussion by experienced practitioners regarding whether an asset purchase and sale agreement, an oil and gas lease, and a joint operating agreement will be rejected by a bankruptcy court. In addition, discuss structuring Bankruptcy Code Section 363 Orders and their effect on encumbrances on title and obligations of the purchasers in light of the Texas Supreme Court decision in <i>Noble Energy, Inc. v. ConocoPhillips Co.</i>  Eric R. Goodman, Baker & Hostetler LLP - Cleveland, OH W. John English Jr., Baker & Hostetler LLP - Houston, TX

4:00 pm 0.50 hr	<b>Why and How to Recycle Oil and Gas Wastewater</b>  In recent years, the Railroad Commission and Texas Legislature have taken steps to facilitate recycling wastewater. Faced with water supply shortages and seismic activity, should Texas do more?  Adam Friedman, McElroy, Sullivan, Miller & Weber, LLP - Austin, TX
4:30 pm 0.50 hr	<b>Plugging Liability: A Framework for Risk and Financial Security</b>  Brandon Durrett, Dykema Cox Smith - San Antonio, TX
5:00 pm	<b>Adjourn Institute</b>