

# 47<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute

## March 26, 2021 • Live Webcast

**Friday Morning, Mar. 26, 2021**

**Presiding Officer:**

**Ronnie Blackwell**, Exxon Mobil Corporation - Spring, TX

8:00 am	<b>Welcoming Remarks</b>
8:10 am 0.50 hr	<b>Case Law Update Part 1</b>  Review recent decisions dealing with oil and gas leases, royalties, mineral conveyances, joint operating agreements, state regulation, and related topics.  Owen L. Anderson, The University of Texas School of Law - Austin, TX
8:40 am	<b>5-Minute Break</b>
8:45 am 0.75 hr	<b>The Commingling Doctrine &amp; Horizontal Wells: Whose Burden is it Anyway?</b>  Review the origins of the commingling doctrine from Old English common law to early U.S. and Texas precedent, as well as various factual circumstances where commingling has been applied. The session will include a discussion of the shifting evidentiary burden necessary to establish the application of the doctrine in a modern oil and gas context.  Ricardo E. Morales, Person, Mohrer, Morales, Boddy, Garcia & Gutierrez PLLC - Laredo, TX
9:30 am	<b>5-Minute Break</b>
9:35 am 0.75 hr	<b>Update On Midstream Agreements in Bankruptcy—From <i>Sabine</i> to <i>Southland</i> and Beyond</b>  Many recent E&P bankruptcies have grappled with the characterization of midstream agreements as either contractual rights that can be rejected or real property interests that ride through unaffected. This presentation analyzes the ever-shifting legal landscape, which has seen midstream agreements characterized as both, leading to a widening split in the courts and uncertainty in the industry.  Jonathan Hyman, Gray Reed - Houston, TX Philip Jordan, Gray Reed - Dallas, TX Lydia R Webb, Gray Reed - Dallas, TX
10:20 am	<b>5-Minute Break</b>
10:25 am 0.75 hr	<b>Non-Participating Royalty Interest Litigation</b>  Recent developments in non-participating royalty interest litigation and royalty instrument interpretation issues.  Corey F. Wehmeyer, Santoyo Wehmeyer P.C. - San Antonio, TX

11:10 am	<b>5-Minute Break</b>
11:15 am 0.75 hr	<p><b>Turn Around, Don't Drown: A New Generation of Oil and Gas Lease "Washouts" in Texas and How to Avoid Them</b></p> <p>While Texas law has always been permissive toward oil and gas lease washouts—the elimination of non-operated leasehold interests or burdens by replacement of an existing lease—three new Texas cases have shaken up our assumptions about the law on this topic. This presentation will discuss these case holdings, their impact on industry stakeholders, and drafting advice for avoiding their negative effects.</p> <p>Brandon Durrett, Dykema Gossett, PLLC - San Antonio, TX</p>
12:00 pm	<b>Break for Lunch - Presentations Resume at 12:30 p.m. CST</b>

## Friday Afternoon, Mar. 26, 2021

### Presiding Officer:

**Ronnie Blackwell**, Exxon Mobil Corporation - Spring, TX

### Luncheon Presentation

12:30 pm 0.75 hr ethics	<p><b>How Did My Texas Disciplinary Rules Change in 2021 Referendum?</b></p> <p>Texas lawyers are voting on new disciplinary rule proposals in the February 2021 referendum. Hear which ones passed, and how do these rules affect your law practice? What should you (and what can you) do differently?</p> <p>Claude E. Ducloux, Attorney at Law - Austin, TX</p>
1:15 pm	<b>5-Minute Break</b>
1:20 pm 0.50 hr	<p><b>Case Law Update Part 2</b></p> <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>
1:50 pm	<b>5-Minute Break</b>
1:55 pm 0.75 hr	<p><b>Protecting Lessor Rights Against a Financially Distressed Lessee</b></p> <p>In 2020, nearly 50 exploration and production companies filed for bankruptcy, with Texas-based operators accounting for the majority of those filings. As a lessor-landowner, certain actions must be taken to secure rights under the oil and gas lease and preserve potential claims against the distressed operator.</p> <p>Ryan Lammert, Uhl, Fitzsimons, Jewett, Burton &amp; Wolff, PLLC - San Antonio, TX</p>
2:40 pm	<b>10-Minute Break</b>

2:50 pm 0.50 hr 0.25 hr ethics	<p><b>Title/Environmental Due Diligence and Related Issues in Oil and Gas Acquisitions</b></p> <p>Explore drafting issues and corresponding title and environmental examination measures to consider in connection with acquisitions and divestitures of oil and gas assets.</p> <p>Joe F. Flack, III, Jackson Walker LLP - Houston, TX</p>
3:20 pm	<b>5-Minute Break</b>
3:25 pm 0.50 hr	<p><b><i>Force Majeure</i> During and After the COVID Pandemic</b></p> <p>In the wake of COVID-19 and plunging oil prices, many practitioners have found themselves reviewing whether <i>force majeure</i> provisions may apply to forgive certain shortcomings in performance during 2020 and beyond. Survey existing law regarding force majeure issues and discuss considerations in drafting future <i>force majeure</i> provisions.</p> <p>Austin W. Brister, McGinnis Lochridge - Houston, TX J. Derrick Price, McGinnis Lochridge - Austin, TX</p>
3:55 pm	<b>5-Minute Break</b>
4:00 pm 0.50 hr	<p><b>Make Peace, Not War: Negotiating and Drafting Accommodation Agreements in the Oil and Gas Industry with Wind and Solar Companies</b></p> <p>A brief discussion of the basic elements of a comprehensive accommodation agreement, which shall include pitfalls to avoid in drafting such agreements, as well as an overview of typical accommodation issues and how best to resolve them.</p> <p>Roderick E. Wetsel, Wetsel, Carmichael &amp; Allen, LLP - Sweetwater, TX</p>
4:30 pm	<b>5-Minute Break</b>
4:35 pm 0.50 hr	<p><b>Trade Secrets in the Oil and Gas Context: Litigation and Discovery Issues</b></p> <p>From prospect generation and evaluation to geophysical data and completion methods, the oil and gas industry relies on trade secret and proprietary information. Explore litigation-related considerations for this confidential information, from discovery matters and protective orders to claims under the Texas Uniform Trade Secret Act.</p> <p>Joseph G. Thompson III, Porter Hedges LLP - Houston, TX</p>
5:05 pm	<b>Adjourn</b>