

**48<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute**  
**April 22, 2022 • Royal Sonesta Hotel Houston • Houston, TX**  
**April 22, 2022 • Live Webcast**

**Friday Morning, Apr. 22, 2022**

**Presiding Officer:**

**Robert G. Hargrove**, Davis, Gerald & Cremer PC - Austin, TX

7:10 am In Houston Only	<b>Institute Registration Opens</b>
8:00 am	<b>Welcoming Remarks</b>
8:10 am 0.75 hr	<b>Case Law Update: Part One</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
8:55 am 0.75 hr	<b>Fundamentals of Carbon Capture and Sequestration</b>  A summary of the existing federal and state framework for regulating carbon sequestration, covering descriptions of recent legislative and regulatory developments, and identifying and discussing legal and practical hurdles to developing carbon sequestration projects in Texas.  Paul R. Tough, McElroy, Sullivan, Miller & Weber, LLP - Austin, TX Thomas M. Weber, McElroy, Sullivan, Miller & Weber, LLP - Austin, TX
9:40 am 0.50 hr	<b>Restraints on Alienation and Consent-to-Assign in Light of <i>Mayo Foundation vs. BP</i></b>  Review the historical uncertainty in Texas law about the enforceability of various types of consent-to-assign provisions that can be found in a mineral lease, with the additional context of recent federal court guidance from <i>Mayo Foundation v. BP</i> (N.D. Tex. 2020) on when a lessor may or may not be acting “reasonably” in withholding its consent.  T. Ray Guy, Frost Brown Todd LLC - Dallas, TX Jason E. Wright, Wright Commercial Litigation - McKinney, TX
10:10 am	<b>15-Minute Break</b>

<p>10:25 am 0.75 hr</p>	<p><b>Voluntary Pooling in Texas: An In-Depth Analysis</b></p> <p>Examine several substantive and procedural points impacting voluntary pooling in Texas, including common types of voluntary pooling arrangements, legal requirements for valid pooling, pooling's effects on oil and gas leases and on the interests of the parties involved, remedies arising from an invalid or improper exercise of the pooling power, express and implied ratifications of pooled units, and unique issues stemming from the practice of horizontal drilling.</p> <p>Katy Wehmeyer, Santoyo Wehmeyer P.C. - San Antonio, TX</p>
<p>11:10 am 0.50 hr 0.25 hr ethics</p>	<p><b>Winter Storm Uri</b></p> <p>Did marketing and midstream agreements withstand the deep freeze?</p> <p>Michael K Reer, Harris, Finley &amp; Bogle, P.C. - Fort Worth, TX</p>
<p>11:40 am In Houston Only</p>	<p><b>Pick up Lunch</b></p> <p>Included in Registration.</p>

## Friday Afternoon, Apr. 22, 2022

### Presiding Officer:

**Robert G. Hargrove**, Davis, Gerald & Cremer PC - Austin, TX

### Luncheon Presentation

<p>12:05 pm 0.75 hr ethics</p>	<p><b>ESG and What it Means to the Industry</b></p> <p>Hear an explanation of what ESG is and how it fits within the concept of enterprise sustainability. The presentation will also discuss how ESG specifically affects the industry and why lawyers from the energy industry should pay attention to ESG, including identifying risks attendant to ESG avoidance, as well as risks related to ESG program development and reporting.</p> <p>Gerald J. Pels, Locke Lord LLP - Houston, TX</p>
<p>12:50 pm</p>	<p><b>15-Minute Break</b></p>
<p>1:05 pm 0.50 hr</p>	<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>

<p>1:35 pm 0.50 hr 0.25 hr ethics</p>	<p><b>A Discussion of <i>Concho v. Ellison</i> and <i>Broadway Bank v. Yates</i></b></p> <p>Review the impact of two Texas Supreme Court cases on the ability to correct deed mistakes and resolve title disputes without court intervention.</p> <p>Julie L. Griffis, Davis, Gerald &amp; Cremer PC - Midland, TX</p>
<p>2:05 pm 0.75 hr</p>	<p><b>Royalty Litigation Post Production Cost</b></p> <p>Two litigators who handle post production cost claims, one who normally represents lessors/payees and one who normally represents lessees/payors, discuss recent case law in the area.</p> <p>Robert G. Hargrove, Davis, Gerald &amp; Cremer PC - Austin, TX Ricardo E. Morales, Person, Mohrer, Morales, Boddy, Garcia &amp; Gutierrez PLLC - Laredo, TX</p>
<p>2:50 pm</p>	<p><b>10-Minute Break</b></p>
<p>3:00 pm 0.50 hr</p>	<p><b><i>Apache v. Castex</i> and the Willful Misconduct Standard in JOA(s)</b></p> <p>A review of the JOA exculpatory clause and the operator’s “willful misconduct” standard. Discussion of recent developments in Texas case law, including <i>Apache v. Castex</i>, <i>Reeder v. Wood County Energy</i>, and <i>Abraxas Petroleum v. Hornburg</i>.</p> <p>James Martin Truss, Dykema - San Antonio, TX</p>
<p>3:30 pm 0.50 hr</p>	<p><b>Produced Water: The Next “Title” Wave of Oil and Gas Litigation</b></p> <p>Over the past decade, produced water has transitioned from one of the oil patch’s greatest liabilities to one of its fastest growing assets. And, as produced water’s quality and value continue to rise is it sure to produce the oil patch’s next “title wave” of litigation.</p> <p>Reagan Marble, Jackson Walker LLP - San Antonio, TX Co-Authors: Robert Biedrzycki, Jackson Walker LLP - San Antonio, TX Peter E. Hosey, Jackson Walker LLP - San Antonio, TX</p>
<p>4:00 pm 0.50 hr</p>	<p><b>Construing Retained Acreage and Related Clauses after <i>Endeavor v. Discovery Operating</i> and <i>XOG v. Chesapeake</i></b></p> <p>A review of cases construing retained acreage, continuous development and related clauses that have been decided in the years following the Texas Supreme Court’s decisions in <i>Endeavor v. Discovery Operating</i> and <i>XOG v. Chesapeake</i>.</p> <p>J. Derrick Price, McGinnis Lochridge - Austin, TX Co-Author: Lecelle Clarke, McGinnis Lochridge - Austin, TX</p>
<p>4:30 pm 0.50 hr</p>	<p><b>The Role of Warranties in Oil and Gas Transactions and Disputes</b></p> <p>Review the nature and effect of title and other warranties, and discuss how different warranty structures within transaction documents may impact parties’ rights. Explore enforcement issues and strategic considerations when negotiating and drafting transactions.</p> <p>Clifton A. Squibb, Hamilton Squibb &amp; Shores, LLP - Dallas, TX</p>

