

**50<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute**  
**April 4-5, 2024 • Royal Sonesta Hotel Houston • Houston, TX**  
**April 4-5, 2024 • Live Webcast**

**Thursday Morning, Apr. 4, 2024**

**Presiding Officer:**

**Kelli Tieken Kenney**, McElroy, Sullivan, Miller & Weber, LLP - Austin, TX

7:30 am In Houston Only	<b>Registration Opens</b>  Includes continental breakfast.
8:30 am	<b>Welcoming Remarks</b>
8:40 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
9:25 am 0.50 hr	<b>Estate Misconception &amp; Presumed Grant: Navigating Mineral-Ownership Disputes After <i>Van Dyke</i></b>  The Texas Supreme Court's landmark <i>Van Dyke</i> opinion changed the rules for resolving mineral-ownership disputes. Discuss what led to the Court's decision, what the opinion means for current litigants, and what questions were left unanswered for us to litigate about for the next decade or more.  Ryan Clinton, Davis Gerald & Cremer - Austin, TX
9:55 am 0.50 hr	<b>"Produced" Water: The Intersection of Ownership, Disposal, Pore Space and Storage</b>  With the rise of water treatment technology and facilities capable of treating produced fracking water into a substance able to be used for beneficial purposes, the value of produced water has risen exponentially in recent years. The increase in value of produced water have allowed owners to benefit greatly in how they beneficially use that water. Owners now have a financial incentive when choosing the method of how they dispose of produced water. Whether by deep saltwater disposal wells, treatment for beneficial use, or treatment for storage in geothermal pore spaces, each method presents legal ownership issues. Texas statutory, RRC regulations, and recent Texas case law have given ownership of produced water new financial opportunities, but also new legal considerations. The intersection of the mineral estate, surface estate, and even the "geothermal" estate have the possibility to meet, and even conflict, in the arena of produced water. Discuss what practitioners should be mindful of with clients having interests related to produced water or its treatment.  Charles P. Hosey, Frost Bank - San Antonio, TX
10:25 am	<b>15-Minute Break</b>

10:40 am 0.50 hr	<b>Carbon Capture and Pore Space Issues</b>  Address the question of who owns subsurface pore space rights when there is a split estate, and discuss the typical terms and conditions of agreements by which prospective carbon capture and storage operators contract for the use of pore spaces. Also consider whether the law provides a mechanism for the use of pore spaces in the absence of the owner's consent (eminent domain? pooling?), and examine whether the migration of carbon dioxide in the subsurface would give rise to an actionable trespass in the absence of contractual or other authority to use pore spaces.  Keith B. Hall, Louisiana State University Paul M. Hebert Law Center - Baton Rouge, LA
11:10 am 0.50 hr	<b>Regulatory and Legislative Update</b>  Review recent regulatory and legislative issues impacting the oil and gas industry, including developments in oil and gas waste management, carbon capture, and geothermal energy.  John K. Hicks, Scott Douglass & McConnico LLP - Austin, TX
11:40 am In Houston Only	<b>Pick Up Lunch (in Houston)</b>  Included in registration.

## Thursday Afternoon, Apr. 4, 2024

### Presiding Officer:

**Jonathan D. Baughman**, McGinnis Lochridge - Houston, TX

### LUNCHEON PRESENTATION

	<b>Thank You To Our Luncheon Sponsor</b>  
12:00 pm 0.50 hr	<b>Cube Development Considerations in a Stacked Pay World</b>  Keynote presentation delivered by Matt Gallagher, Founder, President and Chief Executive Officer of Greenlake Energy  Matt Gallagher, Greenlake Energy - Austin, TX
12:30 pm	<b>15-Minute Break</b>
12:45 pm 0.75 hr	<b>The Present Status of Allocation Wells and Issues</b>  Examine common questions and legal issues associated with the practice of drilling allocation and production sharing agreement wells in Texas, particularly against the backdrop of the Third Court of Appeals' recent decision in <i>Opiela</i> . Also offer guidance for operators who have already drilled such wells or are considering doing so in the future.  Corey F. Wehmeyer, Santoyo Wehmeyer P.C. - San Antonio, TX

1:30 pm 0.50 hr	<p><b>COPAS Accounting Procedures: From a Litigation Perspective</b></p> <p>COPAS accounting procedures are most commonly dealt with in the transactional phase of drafting a joint operating agreement, and then later during the life of the agreement in the course of ongoing accounting activities and routine audits. However, they can also have a significant impact in the course of litigation, including in terms of potential preclusive effects of the exception deadlines, and in terms of discovery strategy. Hear an overview of COPAS audit procedures, as well as potential implications on litigation.</p> <p>Austin W. Brister, McGinnis Lochridge - Houston, TX Co-Author: M. Alejandra Salas, McGinnis Lochridge - Austin, TX</p>
2:00 pm 0.50 hr	<p><b>Update on Wellbore Assignments</b></p> <p>Provide an update on the current state of the law on well-bore assignments, examine certain drafting considerations, and discuss current issues regarding well-bore only ownership.</p> <p>Shane S. Sullivan, Porter Hedges LLP - Houston, TX</p>
2:30 pm 0.50 hr	<p><b>Indemnity Provisions in MSAs: Texas vs. New Mexico</b></p> <p>A practical review of the application of indemnity provisions in Texas vs. New Mexico.</p> <p>Sarah A. Judge, Cotton Bledsoe Tighe &amp; Dawson, P.C. - Midland, TX</p>
3:00 pm	<p><b>15-Minute Break</b></p>
3:15 pm 0.50 hr 0.25 hr ethics	<p><b>Decommissioning Responsibility and Liability in the Gulf of Mexico and the Evolving Rules of Financial Assurance</b></p> <p>Examine the liability regime for decommissioning offshore wells and platforms and how predecessors can be held responsible for decommissioning in the event of a default of the current owners. Discuss the evolving landscape of the financial assurance (bonding) regulations to cover decommissioning liability.</p> <p>Jim Noe, Holland &amp; Knight LLP - Washington, DC and Houston, TX</p>
3:45 pm 1.00 hr ethics	<p><b>Ethics for Lawyers and Landmen</b></p> <p>A look at the ethical obligations of both lawyers and landmen: where they align, and where they diverge, using hypotheticals based on real-world situations.</p> <p>Jack Tanner, Fairfield and Woods, P.C. - Denver, CO</p>
4:45 pm	<p><b>Celebrating 50 Years of the Ernest E. Smith Oil, Gas and Mineral Law Institute</b></p>

5:00 pm  
In Houston Only

## Adjourn to Reception

Thank You to Our Reception Sponsor



## Friday Morning, Apr. 5, 2024

### Presiding Officer:

**Christopher S. Kulander**, South Texas College of Law - Houston - Houston, TX

8:30 am  
0.50 hr

### Case Law Update: Part Two

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

9:00 am  
0.50 hr  
0.25 hr ethics

### New Texas Business Courts

Texas has revamped its Court system for resolving significant business disputes with the creation of new trial and appellate courts by the passage of House Bill 19 (H.B. 19) and Senate Bill 1514 (S.B. 1514), both of which became effective September 1, 2023, but will apply only to actions commenced on or after September 1, 2024.

Byron F. Egan, Jackson Walker LLP - Dallas, TX

9:30 am  
0.50 hr

### Intersection of Bankruptcy and Energy Law

Keeping Score: When does bankruptcy law override oil and gas law? Discuss the clash of federal and state law.

Alfredo R. Pérez, Houston, TX

10:00 am  
0.50 hr

### Texas First Purchaser Liens

An overview of the rebranding of Texas's first purchaser liens that provide interest owners with a second chance at first-priority protection.

Ellen M. Conley, Haynes and Boone, LLP - Houston, TX

10:30 am

### 15-Minute Break

10:45 am 0.50 hr	<b>Wastewater Injections and Nearby Production</b>  Focus on wastewater disposal in or near productive zones, particularly the legal and regulatory interplay between disposal operators and producers working within the same zone or in close proximity.  Michael K. Reer, Harris, Finley & Bogle, P.C. - Fort Worth, TX
11:15 am 0.50 hr	<b>Due Diligence Issues under Different PSA Closing Models</b>  Like other business sectors, simultaneous sign-and-close acquisitions are becoming more popular in the oil and gas industry. Discuss the differences between deferred closings and sign-and-close deals, the features and benefits of each, and when to use one over the other.  Brandon Durrett, Jackson Walker LLP - San Antonio, TX
11:45 am 1.00 hr ethics	<b>ChatGPT Ethics</b>  Topic description generated by ChatGPT: Using ChatGPT for legal purposes promises efficient information processing, yet raises ethical concerns including client confidentiality and the risk of providing inaccurate advice. It is paramount that attorneys ensure adequate supervision, maintain professional discretion, and stay vigilant about the tool's limitations to uphold their ethical obligations.  Henson Adams, Haynes Boone, LLP - San Antonio, TX Adam Sencenbaugh, Haynes Boone, LLP - Austin, TX
12:45 pm	<b>Adjourn</b>