

It Ain't Over Till It's Over: Maintaining a Lease During the Secondary Term Through a Variety of Savings Clauses

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INTRODUCTION

- Yogi Bera (1973 Mets)
 - *The Yogi Book* (2010)
- Savings Clauses
 - Eight Clauses Identified
 - Substantial Overlap and Combinations
 - Specific Examples
- Why are savings clauses important?
- Secret video of a landman's initial response to a lease termination letter

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INTRODUCTION



Movieclips, (2011, June 11). *Bluto's Big Speech - Animal House (9/10) Movie CLIP (1978)*. Retrieved from <https://www.youtube.com/watch?v=q7vtWB4owdE>

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“If you ask me a question I don't know, I'm not going to answer.”



“This is very poorly unorganized.”



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NATURE OF AN OIL AND GAS LEASE

- Fee Simple Determinable
- Habendum Clause
 - “...as long thereafter as oil, gas or other mineral is produced”
 - Automatic Reversion
- Savings Clauses
 - Avoid the automatic effect of the habendum clause
 - Ultimately, when a lease terminates “is always a question of resolving the intention of the parties from the entire instrument.” *Southland Royalty*, 496 S.W.2d at 552.

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SAVINGS CLAUSES - GENERALLY

- “A savings clause is structured to maintain a lease in lieu of actual production in a variety of scenarios.” *ConocoPhillips Co. v. Koopman*, 542 S.W.3d 643.
- The plaintiff (lessor) bears the burden of proof that the lease has not been maintained by production, and also that the various savings clauses in the lease did not maintain the lease. *Hydrocarbon Mgmt., Inc. v. Tracker Exploration, Inc.*, 861 S.W.2d 427.
- No universal list or form of savings clauses – limited only by the creativity and assent of the parties.

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