

# Annual Case Law Update Ernest E. Smith Oil & Gas CLE

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1

## Slides and Briefs Compared

- Briefs are presented in roughly the order that they would appear in the Smith-Weaver Treatise, which I now assist Professor Emeritus Weaver in updating, following the retirement of Professor Smith
- The slides are in the order that I subjectively deem them to be important, interesting, or both.
- For the most part, I do not cover memoranda opinions, RRC cases, and any topics not cover Chapters 1 through 7, 16, and 17.

2

## Part I (morning presentation)

3

### *Matter of First River Energy, L.L.C.*

986 F.3d 914 (5<sup>th</sup> Cir. 2021)

- Historically, the owner of an interest in production became an unsecured creditor of the production purchaser.
- Texas changed this status with a nonuniform amendment to Tex. UCC § 9.343, which grants a first-priority purchase money security interest in oil and gas produced in Texas and in their proceeds in the hands of any first purchaser.
- This security interest is perfected automatically without the necessity of filing a financing statement or filing any renewal statements if the interest of the secured party is evidenced by a recorded deed or lease in the real property records of the county.

4



**Now you see me**  
**Now you don't**

“Producers must beware ‘the amazing disappearing security interest’ and continue to file financing statements. The Texas legislature should take note.”

5

## *Matter of First River Energy, L.L.C.*

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- Tex. House Bill 3794 Tex. Senate Bill 1468 have been introduced in the current session to address this decision.

6

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First appeared as part of the conference materials for the  
47<sup>th</sup> Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session  
"Case Law Update Part 1"