



Jackson Walker LLP

To Equity or Not? The Role of Equitable Defenses in Deed Construction Cases

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April 14, 2023

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What Equitable Defenses?



- Estoppel
 - Estoppel By Deed
 - Quasi-Estoppel
 - Equitable Estoppel
- Ratification
- Waiver
- Laches
- Presumption of Grant
 - Aka Presumed Lost Deed
 - Aka Common Law Adverse Possession
 - Aka Title by Circumstantial Evidence

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Why Am I Talking About it?



- Title Disputes Involve Equity, Too.
 - Fixed v. Floating
 - Mineral v. Royalty
 - Reservation v. Exception
 - Easement v. Fee Conveyance
- What do all of these cases have in common?
- The party with the “stronger” argument argues that equitable defenses do not matter in unambiguous deed disputes—or at a minimum—only apply to estop past damages.

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What I Am Not Talking About.



- Evidence to Resolve Ambiguity
- Surrounding Circumstances

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- *Sun Oil* (estoppel)
- *Yzaguirre* (laches)
- *Strickhausen* (ratification)
- *Van Dyke* (presumed grant)

Sun Oil Co. (Del.) v. Madeley, 626 S.W.2d 726 (Tex. 1981)

- 1932 Oil and Gas Lease provided:
 - Lessee shall deliver to Lessors... one-half of the oil accruing to the seven-eighths working interest from that produced and saved from said land, same to be delivered [**7] in the same manner as provided for the delivery of said royalty oil; subject, however, to the deductions and charges hereinafter provided.
- For forty years, Sun Oil delivered one of the working interest proceeds on oil and gas.
- Sun Oil then revoked the division orders and argued the lease did not require a payment on one-half the working interest proceeds for gas.
- Both parties agreed lease was unambiguous.
- Lessors argued estoppel, waiver, and ratification.

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First appeared as part of the conference materials for the
49th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session
"“To Equity or Not? The Role of Equitable Defenses in Deed Construction Cases”"