

Estate Misconception & Presumed Grant: Navigating Mineral- Ownership Disputes After *Van Dyke*

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Outline

I. Texas's rules of instrument construction

II. The *Van Dyke* decision

III. Historical treatment of estate misconception, the legacy of the 1/8th, and presumed grant

IV. Lessons learned and unanswered questions

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I. Texas's rules of instrument construction

- The purpose of instrument construction "is to determine and enforce the parties' intent as expressed within the four corners of the" instrument. *Piranha Partners v. Neuhoff*, 596 S.W.3d 740, 743-44 (Tex. 2020).
- The "primary" goal of instrument construction is to give effect to the "intentions of the parties as expressed in the instrument." *J.M. Davidson, Inc. v. Webster*, 128 S.W.3d 223, 229 (Tex. 2003).

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I. Texas's rules of instrument construction

- Courts "must examine and consider the entire writing in an effort to harmonize and give effect to all of the provisions of the [instrument]." *J.M. Davidson, Inc. v. Webster*, 128 S.W.3d 223, 229 (Tex. 2003).
- Parties "are free to decide their contract's terms, and the law's `strong public policy favoring freedom of contract' compels courts to `respect and enforce' the terms on which the parties have agreed." *Endeavor Energy Res., L.P. v. Discovery Operating, Inc.*, 554 S.W.3d 586, 595 (Tex. 2018).

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I. Texas's rules of instrument construction

- Courts should neither disregard terms nor “rewrite the parties’ contract.” *Fischer v. CTMI, L.L.C.*, 479 S.W.3d 231, 239 (Tex. 2016).
- Courts should harmonize “inconsistencies or contradictions ... by construing the document as a whole.” *Hysaw v. Dawkins*, 483 S.W.3d 1, 13 (Tex. 2016).

I. Texas's rules of instrument construction

- “Words must be given the meaning they had when the text was adopted.” *Hysaw*, 483 S.W.3d at 13.
- “One fundamental premise ... is that a text retains the same meaning today that it had when it was drafted. Thus, the ordinary meaning at the time of drafting remains the meaning to which courts must later adhere.” *Van Dyke v. Navigator Group*, 668 S.W.3d 353, 359-60 (Tex. 2023).

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