

50<sup>TH</sup> ANNUAL ERNEST E. SMITH  
**OIL, GAS AND MINERAL LAW  
INSTITUTE**



April 4–5, 2024

Royal Sonesta Hotel Houston ■ Houston, Texas

 Live Webcast April 4–5

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50<sup>TH</sup> ANNUAL ERNEST E. SMITH  
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*Times listed are in Central Time*

**THURSDAY MORNING, APR. 4, 2024**

**Presiding Officer:**

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

**7:30 a.m. Registration Opens**

Includes continental breakfast.

**8:30 a.m. Welcoming Remarks**

**8:40 a.m. .75 hr**

**Case Law Update: Part One**

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 a.m. .50 hr**

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

The Texas Supreme Court's landmark *Van Dyke* 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 a.m. .50 hr**

**"Produced" Water: The Intersection of  
Ownership, Disposal, Pore Space and  
Storage**

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 a.m. 15-Minute Break**

**10:40 a.m. .50 hr**

**Carbon Capture and Pore Space Issues**

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 a.m. .50 hr**

**Regulatory and Legislative Update**

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 & McConico LLP,  
Austin, TX

**11:40 a.m. Pick Up Lunch**

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officer:**

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

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**LUNCHEON PRESENTATION**

**12:00 p.m. .50 hr**

**Cube Development Considerations in a  
Stacked Pay World**

Keynote presentation delivered by Matt Gallagher, Founder, President and Chief Executive Officer of Greenlake Energy

**12:30 p.m. 15-Minute Break**

**12:45 p.m. .75 hr**

**The Present Status of Allocation Wells and  
Issues**

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 *Opiela*. 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



UT Law CLE is committed to helping attorneys meet their annual Texas MCLE requirements. Following the event, registrants will receive a free, on-demand eSupplement that will bring their total available hours to 15.00, including 3.00 hours of ethics.

1:30 p.m. .50 hr

### COPAS Accounting Procedures: From a Litigation Perspective

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.

Austin W. Brister, McGinnis Lochridge, Houston, TX

2:00 p.m. .50 hr

### Update on Wellbore Assignments

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.

Shane S. Sullivan, Porter Hedges LLP, Houston, TX

2:30 p.m. .50 hr

### Indemnity Provisions in MSAs: Texas vs. New Mexico

A practical review of the application of indemnity provisions in Texas vs. New Mexico.

Sarah A. Judge, Cotton Bledsoe Tighe & Dawson, P.C., Midland, TX

3:00 p.m. 15-Minute Break

3:15 p.m. .50 hr | .25 hr ethics

### Decommissioning Responsibility and Liability in the Gulf of Mexico and the Evolving Rules of Financial Assurance

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.

Jim Noe, Holland & Knight LLP, Washington, DC and Houston, TX

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3:45 p.m. 1.00 hr ethics

### Ethics for Lawyers and Landmen

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.

Jack Tanner, Fairfield and Woods, P.C., Denver, CO

4:45 p.m.

### Celebrating 50 Years of the Ernest E. Smith Oil, Gas and Mineral Law Institute

5:00 p.m. Adjourn to Reception

THANK YOU TO OUR 50<sup>TH</sup> ANNIVERSARY RECEPTION SPONSOR



5:00 p.m. – 6:00 p.m.

Join us for a networking opportunity with faculty and colleagues.

FRIDAY MORNING, APR. 5, 2024

### Presiding Officer:

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

8:30 a.m. .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 a.m. .50 hr | .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

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9:30 a.m. .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 a.m. .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 a.m. 15-Minute Break

10:45 a.m. .50 hr

### Wastewater Injections and Nearby Production

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 a.m. .50 hr

### Due Diligence Issues under Different PSA Closing Models

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 a.m. 1.00 hr ethics

### ChatGPT Ethics

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 p.m. Adjourn

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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 11.00 hours, of which 2.50 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

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### Fax:

512.475.6876

Questions? 512.475.6700

If you have dietary requirements or would like to request accommodations under the ADA, please contact Customer Service at 512.475.6700 or [service@utcle.org](mailto:service@utcle.org) at least 10 days prior to the conference.

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**Comprehensive Course Materials:** Access course materials in "Your Briefcase" approximately 48 hours before the live event, and enjoy unlimited access to the final, complete course materials – downloadable PDFs of papers and slides.

**Accredited eConference:** Complimentary access to the eConference – with papers, slides, and video – accredited for one year in both TX and CA are available in "Your Briefcase" 6–8 weeks after the event.

**TX MCLE Credit Reporting:** UT Law CLE can report credit on your behalf directly to the State Bar of Texas. Track the Texas MCLE credit reported on your behalf at "Your Account" after you've logged in at [www.utcle.org](http://www.utcle.org).

## TROUBLE LOGGING IN?

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### EVENT REGISTRATION

*Includes Electronic Course Binder Download (PDF) in "Your Briefcase." Special group registration rates available. Call 512.475.6700.*

- Live, In-Person Event Registration . . . . . \$625 | \$725 after March 20  
 Live Webcast Registration . . . . . \$625 | \$725 after March 20

**Printed and Shipped Binder with Registration (Shipping Included)** – Available for order through Friday, April 5, 2024

*Please note that the printed binder will arrive 2–3 weeks after the conclusion of the live event. Delivery to P.O. boxes is not permitted. Binders will not be distributed on-site.*

- Printed and Shipped Course Binder . . . . . \$81.19 (\$75\*)

### Webcast Add-on

*Register for the in-person conference and add on the webcast format for attendance flexibility.*

- Webcast Add-on . . . . . \$75

**TOTAL EVENT REGISTRATION \$ \_\_\_\_\_**

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#### eConference – For Texas and California MCLE Credit

*Includes Electronic Course Binder Download (PDF) and program video/audio. Available 6-8 weeks after live event. Hours may vary depending on actual event runtime.*

- Individual eConference . . . . . \$725

#### Post-Course Binder – For Research and Self-Study

*Comprehensive binder with papers and slides, available for delivery 4–6 weeks after live event.*

- Electronic Post-Course Download (PDF) . . . . . \$297.69 (\$275\*)  
 Printed Post-Course Binder . . . . . \$351.81 (\$325\*)

**TOTAL POST-CONFERENCE PRODUCTS \$ \_\_\_\_\_**

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## HOUSTON

April 4–5, 2024

### CONFERENCE LOCATION



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for hotel room block and parking information.

### KEY DATES

**March 20, 2024**

*Last day for early registration rates*

**March 29, 2024**

*Last day for full refund cancellation*

**April 1, 2024**

*Last day for partial refund cancellation*

\$50 processing fee applied

**April 4, 2024 8:30 a.m., CT**

*Institute begins*

**April 5, 2024**

*Last day to order a printed and shipped course binder  
with in-person or webcast conference registration.*

## REASONS TO ATTEND

UT Law CLE and the Oil, Gas and Energy Resources Law Section is celebrating 50 years of the **Ernest E. Smith Oil, Gas and Mineral Law Institute!** After 50 years, the Institute continues to be the definitive course for attorneys, corporate lawyers, E&P operators, and landmen, and it brings together a distinguished faculty of academics and practitioners for presentations on the latest oil and gas developments.

In this 50<sup>th</sup> anniversary year, the Institute will now be a day and half program on April 4–5 in Houston, and covers an array of topics including:

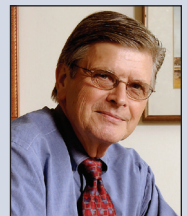
- **The popular two-part Case Law Updates**
- **Legislative and Regulatory Updates**
- **Information on how the new business courts could impact oil and gas disputes**
- **Coverage of MSA terms, service agreements, wellborn assignment updates, and much more**

Plus, join faculty, planning committee, section members and attendees Thursday evening for the 50<sup>th</sup> Anniversary Celebration Reception.

All Institute attendees will also receive UT Law CLE's "15&3 Guarantee" that provides complimentary access to a bonus accredited eCourse and allows Texas attorneys to complete their annual MCLE reporting requirements with this one registration.

## ABOUT ERNEST E. SMITH

A specialist in oil and gas law, Professor Smith is co-author of the leading casebook on Oil and Gas Law (West, 6<sup>th</sup> ed., 2013), and the leading treatise on Texas Law of Oil and Gas (3 volumes, 2<sup>nd</sup> ed., LEXIS, 1998). Other co-authored books on oil and gas law include Hemingway Oil and Gas Law and Taxation (4<sup>th</sup> ed., 2004), and International Petroleum Transactions (3<sup>rd</sup> ed., 2010). He is also co-author of Cases and Materials on Property (Foundation, 9<sup>th</sup> ed., 2007) and (Texas) Wind Law (Lexis 2011).



In 2008 Professor Smith received the Massey Teaching Excellence Award. Earlier teaching awards include the Clyde Martz Award for Excellence in Teaching from the Rocky Mountain Mineral Law Foundation in 1998, and the Texas Excellence Teaching Award for the School of Law from the Ex-Students Association in 2000. In the same year, Annual Institute of Oil, Gas and Mineral Law, which is co-sponsored by the Texas State Bar Section on Oil, Gas and Energy Law and the University of Texas School of Law was re-named the **Ernest E. Smith Oil, Gas and Mineral Law Institute**. The Ernest E. Smith Endowed Presidential Scholarship in Law was established in 1994, and the Ernest E. Smith Professorship in Law was established in 1996.

Professor Smith teaches classes in the areas of property, oil and gas, international petroleum transactions, and wind energy law. A former Dean of the Law School, Professor Smith has also been a Visiting Professor at several law schools including Harvard.