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2026 Case Law and Statue Update

New Mexico and Texas

About the Speaker

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Shaun Schottmiller is a partner at Oliva Gibbs where he advises E&P companies of all sizes on transactional and title matters across Texas, New Mexico and beyond. Licensed in Texas, New Mexico and Utah, he holds a J.D., and LL.M. in Energy Law, and an M.B.A. Before joining Oliva Gibbs, Shaun spent over a decade in Midland, Texas, the heart of the Permian Basin, first in private practice, then in-house with Concho Resources.

Shaun negotiates, reviews and drafts the full range of upstream agreements landmen work with daily, including oil and gas leases, surf use agreements, conveyances, assignments, and pooling instruments. He brings a deep title experience, preparing and analyzing acquisition, drilling, and division order opinions, and regularly counsels clients on development planning, deal strategy and transaction structure.

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Richard v. Marathon (NM)

Richard v. Marathon Petroleum Corp., No. A-1-CA-40747, 2026-NMCA-004 (N.M. Ct. App. May 14, 2025)

Parties

- Plaintiff/Appellant: NM Commissioner of Public Lands, acting for the State as a Landowner
- Defendant: Marathon Petroleum Corporation, successor to Tesoro Petroleum Co.

Court/Jurisdiction

- Court of Appeals of New Mexico; NM statutory and common law governing state trust land leases and assignments

Nature of Dispute

- Commissioner sued Marathon for damages to state trust lands caused by Tesoro while it held leases, claiming Marathon is derivatively liable as successor
- District Court dismissed; Commissioner appealed

Richard v. Marathon (NM)

Richard v. Marathon Petroleum Corp., No. A-1-CA-40747, 2026-NMCA-004 (N.M. Ct. App. May 14, 2025)

Key Facts

- State lease assignments included release of “all obligations”
- Commissioner alleged damage to New Mexico state trust lands caused by Tesoro during its tenure as lessee under oil and gas leases
- Alleged damage occurred before Tesoro's assignment of the leases was approved (1988-1993)
- Commissioner alleged Marathon is Tesoro's successor in interest and therefore derivatively liable
- Claims included breach of contract and tort — negligence, trespass, and waste
- District court dismissed all claims, finding Tesoro was relieved of "all obligations" to the State upon assignment

Richard v. Marathon (NM)

Richard v. Marathon Petroleum Corp., No. A-1-CA-40747, 2026-NMCA-004 (N.M. Ct. App. May 14, 2025)

Holding

- Reversed the dismissal of tort claims. Liability for pre-assignment damage can survive an assignment.

Reasoning

- Tort claims allege violations of legal duties existing independently of the leases (NMSA 1978, § 19-6-3)
- "All obligations" in NMSA 1978, § 19-10-13 and assignment provisions applies only to contractual obligations – not tort liability or past misconduct
- Limited tort liability must be expressly bargained for; no such express limitation existed here
- 19.2.100.43 NMAC did not support extinguishing tort liability upon assignment

Richard v. Marathon (NM)

Richard v. Marathon Petroleum Corp., No. A-1-CA-40747, 2026-NMCA-004 (N.M. Ct. App. May 14, 2025)

Practical Tips

- Lease assignment ≠ full liability shield
  - Broad "all obligations" release language covered only contract duties, not tort liability for prior damage. In land administration, understand that liability for surface damage, waste, or trespass can survive assignment and follow a successor; an approved assignment is not a complete release.
- Liability can follow the chain of title
  - Successor liability for waste, trespass, and land damage can attach based on past operations through merger/acquisition.
  - Research the operating history and prior lessees of the tract, inspect for legacy surface damage, and confirm how known conditions are addressed before closing.
- Draft Carefully
  - The court required limited tort liability to be expressly bargained for. When papering assignments or surface agreements on state or fee lands, ensure any intended limitation or transfer of damage liability is stated expressly rather than relying on general assignment wording.

Legacy Lawsuits Generally

- The “Legacy Lawsuits” in Louisiana had a chilling effect on operations and capital investment in in Southern Louisiana for decades. A growing concern in every state.
- Owners, operators, and all predecessor companies are liable for environmental activities.
- Many states are wresting with unplugged or improperly plugged orphan or zombie wells.
- Difficult balance. Who should pay? The options are basically the state (taxpayers) or the operators.
- Recent Louisiana legislation (Act 458) will take effect 9/1/2027. This is leading to a current wave of litigation.

Snow Oil and Gas, Inc. v. Garcia Richard (NM)

No. A-1-CA-42387 (N.M. Ct. App. June 4, 2026) (mem. op., unpublished)

Parties

- Appellant: Stephanie Garcia Richard, Commissioner of Public Lands of New Mexico (SLO)
- Appellee: Snow Oil & Gas, Inc, lessee/operator/assignee of the lease

Court/Jurisdiction

- Court of Appeals of New Mexico (unpublished opinion); reviewing District Court's review of Commissioner's administrative contest decision

Nature of Dispute

- Whether a New Mexico state oil and gas lease automatically expired when the lessee failed to make a timely annual shut-in royalty payment, or whether the lease could only be cancelled after statutory notice and 30-day cure period

Snow Oil and Gas, Inc. v. Garcia Richard (NM)

No. A-1-CA-42387 (N.M. Ct. App. June 4, 2026) (mem. op., unpublished)

Key Facts

- State Lease No. L-423-1 (issued 1967; assigned to Snow in 1991): habendum clause continues the lease so long as oil/gas produced in paying quantities; savings/shut-in clause avoids expiration during temporary nonproduction if a well is capable of producing and lessee pays annual shut-in royalty (due November 21)
- Separate cancellation clause (mirroring NMSA 1978, § 19-10-20): lessor may cancel for failure to comply with lease covenants, but only after mailing notice of intention to cancel, with cancellation avoided if the default is remedied within 30 days
- Two wells (Eddy GK State Com Well 1 & 2) both shut-in since 2015 due to high pipeline pressure. Shut-in payments made for 2015 (accepted late after initial rejection for wrong amount/forms), 2016, and 2017 (including overpayments)
- No shut-in payment or forms submitted by November 21, 2018. In February 2019 the Commissioner notified Snow the Lease had "automatically expired by its own terms" (effective Feb. 26, 2019) and provided a 30-day window was to initiate a contestation proceeding
- Snow submitted late payments in March 2019 seeking reinstatement and filed an administrative contest; the hearing officer recommended denial; the Commissioner denied; the district court reversed and ordered reinstatement; the Commissioner appealed

Snow Oil and Gas, Inc. v. Garcia Richard (NM)

No. A-1-CA-42387 (N.M. Ct. App. June 4, 2026) (mem. op., unpublished)

Holding

- Reversed the District Court: the Lease automatically expired on its own terms

Reasoning

- Automatic expiration, not cancellation: under *Greer v. Salmon*, a lease automatically terminates when the lessee fails to make shut-in payments – an optional condition to satisfy the habendum clause
- No 30-day cure, because the lease expired (was not cancelled); the cancellation clause and § 19-10-20 notice-and-cure did not apply; Snow failed to meet the optional condition that would have extended the lease
- No reinstatement: once automatically expired, the lease cannot be revived by late payment (*Greer*); prior overpayments are not credited forward (§ 19-7-59(C) does not apply as shut-in payments are not ordinary royalties)

Snow Oil and Gas, Inc. v. Garcia Richard (NM)

No. A-1-CA-42387 (N.M. Ct. App. June 4, 2026) (mem. op., unpublished)

Practical Tips

- Shut-in Royalty Deadlines are hard deadlines
  - Unlike a covenant default, a missed shut-in payment lets a lease expire automatically with no notice and no cure period. Calendar every shut-in deadline (here, November 21 annually), confirm the correct amount and required forms in advance (Snow's 2015 payment was first rejected for a wrong amount and improper forms), and treat rejected/returned payments as unpaid until accepted. Do not assume the SLO must warn you before the lease is gone.

- Expiration vs. Cancellation
  - The statutory notice-and-cure regime (§ 19-10-20) protects against cancellation for covenant default, but NOT against automatic expiration under the habendum/savings clause. In title exam and due diligence, when a state lease is held by shut-in payments, verify each annual payment was timely and properly made; a single missed shut-in year can terminate the lease and any communitization agreement it supports, without any curable "default."

Atencio v. State of New Mexico (NM)

Atencio v. State of New Mexico, No. A-1-CA-42006 (N.M. Ct. App. June 3, 2025)

Parties

- Plaintiffs-Appellees — individual New Mexicans (including Indigenous residents near San Juan and Permian Basins) and advocacy organizations (YUCCA, Pueblo Action Alliance, Center for Biological Diversity, WildEarth Guardians, et al.)
- Defendants-Appellants — State of New Mexico, the Legislature, Governor, NMED, EMNRD, Environmental Improvement Board, Oil Conservation Commission; intervenors: Independent Petroleum Association of NM and NM Chamber of Commerce

Court/Jurisdiction

- Court of Appeals of New Mexico; interlocutory appeal from Santa Fe County District Court; all issues reviewed de novo (motion to dismiss / judgment on the pleadings)

Nature of Dispute

- Constitutional challenge claiming New Mexico's statutory/regulatory scheme fails to adequately control oil and gas pollution under the Pollution Control Clause (N.M. Const. art. XX, § 21) and due process/equal protection; plaintiffs sought to halt further permitting and impose judicial oversight

Atencio v. State of New Mexico (NM)

Atencio v. State of New Mexico, No. A-1-CA-42006 (N.M. Ct. App. June 3, 2025)

Key Facts

- Suit challenged the cumulative adequacy of New Mexico's environmental regime for oil and gas rather than a single statute, permit, or agency action, particularly in the San Juan and Permian Basins
- Plaintiffs invoked the Pollution Control Clause (PCC), which declares a "beautiful and healthful environment" is of fundamental importance and directs the Legislature to "provide for control of pollution . . . consistent with the use and development of these resources for the maximum benefit of the people"
- Plaintiffs alleged several environmental statutes (Hazardous Waste Act, Solid Waste Act, Water Quality Act) expressly exempt oil and gas, that the Air Quality Control Act is under-enforced, and that agencies are under-funded to monitor pollution and plug abandoned wells
- Five causes of action advanced (PCC declaratory claim, inherent rights, due process, equal protection); sought injunctions suspending well permitting and ongoing judicial supervision
- District court denied the State's motions to dismiss (except NMCRA claims against Legislature/officers on legislative immunity); State took interlocutory appeal

Atencio v. State of New Mexico (NM)

Atencio v. State of New Mexico, No. A-1-CA-42006 (N.M. Ct. App. June 3, 2025)

Holding

- Reversed and remanded with instructions to dismiss in full because Plaintiffs stated no claim upon which relief can be granted. The PCC creates no individual enforceable right, and the requested relief would violate the separation of powers

Reasoning

- PCC creates no individual right: by its text, it declares the importance of a healthful environment and directs the Legislature to "provide for" pollution control; however, it contains no rights-creating language and no "sufficiency" standard against which a court could measure compliance
- Separation of powers / nonjusticiability: the PCC commits pollution-control policymaking to the Legislature with enforcement delegated to executive agencies; granting relief would require the court to invent a pollution standard and reweigh legislative policy; claims also bypassed exclusive administrative processes (e.g., Oil Conservation Commission)
- Due process fails: no recognized fundamental right to a "beautiful and healthful environment"; equal protection fails: challenged statutes are facially neutral; geographic proximity to oil and gas activity is not a suspect classification

BLM Proposed Rule

Onshore Oil & Gas Leasing Revisions (June 2026)

Agency

- BLM; Docket BLM-2025-0037; RIN 1004-AF05; 91 Fed. Reg. 38084 (June 24, 2026); revises 43 CFR 3000-3180

Status

- Proposed Rule; Comments due August 24, 2026; OMB info-collection comments by July 24, 2026

Key Proposed Changes

- Royalty rate for new leases returns to 12.50% (from 16.67%); existing leases keep current royalty rates
- Bonding minimums: $10k/lease, $25k statewide (down from $150k/$500k); 5-year review preserved
- Eliminates expression-of-interest fee; reduces siting distance (800m to 200m) and timing (90 to 60 days); new commingling and “eligible/”available” land definitions

Evans Resources v. Diamondback E&P, LLC (TX)

725 S.W.3d 718 (Tex. App. – Eastland 2025)

Parties

- Appellant: Evans Resources, L.P., mineral owner
- Appellee: Diamondback E&P, LLC, lessee/operator

Court/Jurisdiction

- Texas Court of Appeals, Eastland; Texas law

Nature of Dispute

- Mineral owner sued lessee/operator over performance under interrelated agreements covering a 651-acre tract in Midland County
- Claims: royalty underpayment, failure to account, and unfulfilled oral promise to drill

Evans Resources v. Diamondback E&P, LLC (TX)

725 S.W.3d 718 (Tex. App. – Eastland 2025)

Key Facts

- Evans owned the 651-acre tract in Midland County, Texas, subject of the dispute
- Evans executed an Oil and gas lease and surface use agreement with Bluestem Energy, LP
- The SUA provided for a payment to Evans for surface locations on their land to be paid for each site "<u>constructed</u>" on the land
- Evans consented to an assignment of the lease to Diamondback, allegedly relying on Diamondback's oral promise to drill horizontal wells from pads on the tract
- Diamondback <u>staked locations</u>, but ultimately built the pads on a neighboring tract
- Evans sued on claims of royalty underpayment, failure to account, and unfulfilled oral promise to drill
- Trial court granted Diamondback's motions for partial summary judgment on most claim

Evans Resources v. Diamondback E&P, LLC (TX)

725 S.W.3d 718 (Tex. App. – Eastland 2025)

Holding

- Affirmed judgment for Diamondback on all claims

Reasoning

- Evidence legally and factually insufficient to support royalty underpayment or failure-to-account claims; jury findings in Diamondback's favor supported by the record
- The terms of the lease and the surface use agreement controlled the analysis and did not support breach or fraud
- The "purpose requiring payment" of the surface damages was the "construction" of the pad, and Diamondback did not construct the pad
- No evidence the oral promise to drill was made or relied upon
- Evans showed no violations under Tex. Nat. Res. Code § 91.402

Evans Resources v. Diamondback E&P, LLC (TX)

725 S.W.3d 718 (Tex. App. – Eastland 2025)

Practical Tips

- Write it Down:
  - When negotiating or reviewing leases or any other agreements, make sure drilling obligations, continuous-development expectations, and well commitments are expressly captured in writing — do not rely on verbal assurances from the other party.

- Define Your Terms and Trigger Points:
  - Identify the mechanism by which a subsequent action, such as damage payments, is required.

Griffin Energy Law, PLLC v. Billingsley (TX)

732 S.W.3d 304 (Tex. App. – Eastland 2026)

Parties

- Appellant: Griffin Energy Law, PLLC, acquired rights to a disputed mineral interest
- Appellee: Billingsley family

Court/Jurisdiction

- Texas Court of Appeals, Eleventh District Eastland; Texas law

Nature of Dispute

- Mineral title dispute over whether a mineral interest is separate property or community property

Griffin Energy Law, PLLC v. Billingsley (TX)

732 S.W.3d 304 (Tex. App. – Eastland 2026)

Key Facts

- 1978: Larry Billingsley (married to Nickie) acquired mineral interest in the SW/4 of a section by deed expressly reciting that the purchase was with “separate funds and separate property” and stating it “shall be” his separate property. Robert acquired a mineral interest in the SE/4 of the same section
- 1979: Larry and his brother, Robert Billingsley, swap ½ of their mineral interests; no money or other consideration, only a mineral exchange; the 1979 deed contained no separate-property recitals
- Both brothers consistently treated their interests as separate property in subsequent transactions
- Larry died in 1986; estate passed to siblings, who later conveyed to Robert. Nickie died in 1987 intestate
- Griffin acquired rights from Christopher Curtis (Nickie’s son) for $20k, arguing community property based on estate-inventory omissions and unrelated transactions

Griffin Energy Law, PLLC v. Billingsley (TX)

732 S.W.3d 304 (Tex. App. – Eastland 2026)

Holding

- Affirmed summary judgment for the Billingsley family; the mineral interest in the SE/4 retained its separate-property character

Reasoning

- 1978 deed's express recitals created a presumption of separate property requiring competent evidence to rebut
- Mutation doctrine: separate-property character preserved when exchanged for another asset with no community property consideration (mineral exchange only)
- Griffin produced no competent rebuttal evidence; estate-inventory omissions and unrelated transactions irrelevant; characterization of the property depends on circumstances of acquisition

Griffin Energy Law, PLLC v. Billingsley (TX)

732 S.W.3d 304 (Tex. App. – Eastland 2026)

Practical Tips

- Read Deed Recitals Carefully
  - The 1978 deed's separate-property recitals were dispositive

- Trace Character through the Chain
  - Under the mutation doctrine, separate character carried through the 1979 exchange despite a lack of recitals to that effect in the deed. Follow the chain back to the originating acquisition and nature of consideration
  - Property acquired in exchange for separate property becomes the separate property of the spouse that exchanged the property.

Roane-Williams Tex. Minerals, LLC v. EOG Res., Inc. (TX)

No. 13-23-00569-CV, 2025 WL 3101349
(Tex. App. – Corpus Christi-Edinburg Nov. 6, 2025, no pet. h)

Parties

- Appellant: Roane-Williams Texas Minerals, LLC, mineral owner
- Appellees: EOG Resources, Inc., Operator, and Reagan Smith Energy Solutions, Inc., consultant

Court/Jurisdiction

- Court of Appeals of Texas, Thirteenth District; Texas law

Nature of Dispute

- Whether the "Drilling Unit" was the larger 823.15-acre Contract Area or the smaller 702.24-acre tract that was developed, which affects NRI and allocation of burdens

Roane-Williams Tex. Minerals, LLC v. EOG Res., Inc. (TX)

No. 13-23-00569-CV, 2025 WL 3101349
(Tex. App. – Corpus Christ-Edinburg Nov. 6, 2025, no pet. h)

Key Facts

- Roane owns unleased 1/36 mineral interest in a 125-acre tract within the Blanc Unit; the BLM owns a 1/4 mineral interest in the same tract which was leased to EOG; co-development via a communitization agreement was thus required
- 2017 CA covered 823.15 acres (Contract Area), including Tract 120.910 under the Ranch Lease; Roane signed; however, the Ranch Lease had a restrictive pooling provision
- 2018 CA: Ranch Lease Tract (120.910 acres was dropped) coverage reduced to 702.24 acres; Roane did NOT sign the revised CA (2018)
- Roane then signed the JOA, WPAs, AFEs, and Unit Designation (BHUD), all of which described development on the 702.24-acre tract
- The JOA required each party to pay the amount of all operation costs and burdens of production in proportion to its ownership interest unless "the Drilling Unit equals the Contract Area"; if it doesn't the parties bear costs in proportion to ownership interest, but production burdens only for their respective tracts
- EOG discovered in early July 2019 that the net revenue interests reflected in the division orders did not properly charge Roane for its proportional share of production burdens as set forth in the JOA
- EOG recalculated Roane's NRI downward; Roane sued for breach, fraud, and statutory violations

Roane-Williams Tex. Minerals, LLC v. EOG Res., Inc. (TX)

No. 13-23-00569-CV, 2025 WL 3101349
(Tex. App. – Corpus Christ-Edinburg Nov. 6, 2025, no pet. h)

Holding

- Affirmed summary judgment for EOG and Reagan. The drilling unit was the 702.24-acre tract, not the larger Contract Area, so Roane bore its proportionate share of all production burdens

Reasoning

- Plain meaning of JOA, BHUD, WPAs, AFEs, and as-drilled plats conclusively fixed the drilling unit at 702.24 acres
- 2017 CA merely pooled interests for a specific well and set no payment method, so no breach was possible
- Fraud and misrepresentation claims failed as there was no justifiable reliance (Roane signed the participation elections and accompanying documents)

Roane-Williams Tex. Minerals, LLC v. EOG Res., Inc. (TX)

No. 13-23-00569-CV, 2025 WL 3101349
(Tex. App. – Corpus Christ-Edinburg Nov. 6, 2025, no pet. h)

Practical Tips

- Understand What's Permitted Under Your Leases
    - This dispute arose due to a lease being improperly pooled under it own terms
- Review All Unitization Documents
    - Of particularly importance with federal interest included and modifications to the unit occur
- Operators Need Clear Communication
    - Updated Agreements should make it clear how interests of the parties change to avoid disagreements in the future

Endeavor Natural Gas III, LLC v. Comanche Maverick Ranch Investments, L.P (TX)

No. 14-24-00639-CV (Tex. App. – Houston, Nov. 4, 2025)

Parties

- Appellant: Endeavor Natural Gas III, LLC - lessee
- Appellee: Comanche Maverick Ranch Investments, L.P. – landowner, lessor

Court/Jurisdiction

- Court of Appeals of Texas, Fourteenth District; Texas law

Nature of Dispute

- Whether a seismic provision requiring a "mutually agreed-upon seismic surface use permit" is an enforceable condition precedent (letting the landowner withhold consent) or an unenforceable "agreement to agree"

Endeavor Natural Gas III, LLC v. Comanche Maverick Ranch Investments, L.P (TX)

No. 14-24-00639-CV (Tex. App. – Houston, Nov. 4, 2025)

Key Facts

- Endeavor and Comanche entered into an oil and gas lease and a separate surface use agreement
- The SUA provided that Endeavor could conduct seismic operations only after entering into a separate "mutually agreed-upon" seismic surface use permit
- Endeavor's counsel sent a letter to Comanche requesting that it enter into good faith discussions for a seismic use permit. Comanche's counsel responded that the seismic provision is unenforceable and that Comanche had "no obligation" to enter into a seismic use permit. Endeavor notified Comanche that it nonetheless intended to begin seismic operations on the land
- Other clauses in the same agreement expressly allowed Comanche to grant or withhold consent "in its sole discretion" (e.g., operations within 1,500 ft. of headquarters)
- Trial court declared Endeavor could not conduct seismic without a permit and Comanche was not required to issue one; Endeavor appealed

Endeavor Natural Gas III, LLC v. Comanche Maverick Ranch Investments, L.P (TX)

No. 14-24-00639-CV (Tex. App. – Houston, Nov. 4, 2025)

Holding

- Affirmed. The seismic provision is an unambiguous condition precedent. Comanche may withhold consent

Reasoning

- "Only after" manifests conditional intent (like "if," "provided that"); the right accrues only after both parties mutually agree on a permit
- "Mutually agree" means each party holds its own right to assent or not; it does not require that the parties agree. Comanche could unilaterally withhold consent
- "Sole discretion" language elsewhere involved simple yes/no permissions; the seismic permit required agreement on many open details, justifying the mutual-agreement structure
- Prevention doctrine did not apply; excusing the condition would render the mutual-agreement language meaningless

Endeavor Natural Gas III, LLC v. Comanche Maverick Ranch Investments, L.P (TX)

No. 14-24-00639-CV (Tex. App. – Houston, Nov. 4, 2025)

Practical Tips

- Only After / Mutually Agree language creates real veto
  - Operations conditioned on "mutually agreement" provide each party with veto power. If a right is necessary for conducting operations, best practice is to provide for that in the operative document rather than in some future agreement
- Draft Consent Standards Deliberately and Consistently
  - The court contrasted "mutual agreement" with "sole discretion" clauses elsewhere. If consent is meant to be reasonable, say so (e.g., "not to be unreasonably withheld"); silence or "mutual agreement" defaults to each side's free choice
- Verify Essential Operations are Actually Permitted, Not Just Contemplated
  - Confirm whether the necessary rights are granted outright or hinge on unfulfilled conditions precedent. It's important to understand what steps/agreements are still needed in order to confirm your drilling schedules

Kreines v. ES3 Minerals, LLC

No. 15-25-0027-CV (Tex. App. – 15th Dist., Dec. 4, 2025)

Parties

- Appellants: Nicholas Kreines and David Ryan (former ES3 employees), and their entities (Liberty Mineral Partners LLC, NAK Resources, CGR Oil and Gas)
- Appellee: ES3 Minerals, LLC

Court/Jurisdiction

- Court of Appeals of Texas, Fifteenth District; review of Texas Business Court order; Texas law

Nature of Dispute

- Trade-secret/noncompete dispute: ES3 obtained a temporary injunction barring former employees and their competing entity (LMP) from transacting with ES3's mineral-rights buyers

Kreines v. ES3 Minerals, LLC

No. 15-25-0027-CV (Tex. App. – 15th Dist., Dec. 4, 2025)

Key Facts

- ES3 brokers mineral rights using a simultaneous-closing model; protects buyer, pricing, and software information through confidentiality agreements and a departmental "silo" structure
- Ryan and Kreines signed Confidentiality Agreements and 24-month post-termination noncompete and non-solicitation agreements
- Ryan left (Aug. 2023) and launched LMP, a direct competitor; Kreines assisted while still employed; LMP sold to former ES3 buyers; ES3 revenue fell ~$10 million in 2024
- ES3 obtained a temporary injunction barring transactions with "Plaintiff's Buyers" (a confidential list) plus "any subsidiaries known to be subsidiaries by Kreines, Ryan or LMP"; bond set at $25,000
- Appellants challenged specificity, statement of reasons, and adequacy of the bond

Kreines v. ES3 Minerals, LLC

No. 15-25-0027-CV (Tex. App. – 15th Dist., Dec. 4, 2025)

Holding

- Affirmed in part, reversed in part, and remanded. The injunction was proper in concept but deficient in specificity and bond amount

Reasoning

- Specificity (Rule 683): “Known subsidiaries” language was not adequately specific; an injunction enforceable by contempt must specifically name the off-limits entities (reversed and remanded)
- Statement of reasons: Loss of trade secrets, deals, profits, employees, and goodwill were supported by the underlying facts
- Bond (Rule 684): $25k was inadequate; bond must be proportionate to the harmed the enjoined party would suffer (reversed and remanded)

Kreines v. ES3 Minerals, LLC

No. 15-25-0027-CV (Tex. App. – 15th Dist., Dec. 4, 2025)

Practical Tips

- Protect Buyer/Pricing Relationships with Well-Drafted Covenants
  - ES3's silo structure, confidentiality agreements, and 24-month noncompete/non-solicitation covenants were central to obtaining relief. Businesses trading on buyer relationships and pricing models should paper those protections carefully and identify protected customers with precision
- Name Protected Customers Specifically
  - The injunction failed on subsidiaries because it depended on what former employees "knew." When drafting covenants or seeking injunctions, list the specific off-limits customers and affiliates by name so restrictions are enforceable and not void for vagueness
- Quantify Losses Early
  - The court required a bond proportionate to the enjoined party's likely harm (millions in pending deals). Parties seeking or opposing injunctive relief should marshal evidence of actual losses early because the bond must reflect the real value at risk.

Cornucopia Oil and Gas, LLC v. Berry

No. 14-25-00071-CV (Tex. App. – Houston, Dec. 18, 2025)

Parties

- Appellants: Cornucopia Oil and Gas, LLC (formerly Escopeta Oil of Alaska)
- Appellee: Allen Lawrence Berry, Danny S. Davis et al. ("Davis Parties")

Court/Jurisdiction

- Court of Appeals of Texas, Fourteenth District; Texas law

Nature of Dispute

- Whether Cornucopia consented to Texas jurisdiction through a forum-selection clause in an Assignment it did not sign, but which was incorporated by the Amended JOA it did sign; underlying claims involve breaches of agreements governing the Kitchen Lights Unit (Cook Inlet, Alaska)

Cornucopia Oil and Gas, LLC v. Berry

No. 14-25-00071-CV (Tex. App. – Houston, Dec. 18, 2025)

Key Facts

- In 2010 the Davis Parties entered into JOA and LAPA (Kitchen Lights Unit, Cook Inlet, Alaska) with Escopeta entities, conveying 79% WI. Escopeta Oil became Furie; Escopeta Alaska became Cornucopia
- After Furie's bankruptcy, parties executed a Settlement with two related instruments: (1) an Assignment (signed by Davis Parties and Furie) and (2) an Amended JOA (signed by all, including Cornucopia)
- Conflicting forum clauses: Assignment selected Harris County, Texas; Amended JOA selected New Castle County, Delaware. The Amended JOA stated it "is subject to the Assignment" and in any conflict “the Assignment Agreement shall control”
- Davis Parties sued in Harris County alleging Assignment breaches: Prohibited Expenses, unreasonable LOE, failure to assign new leases, unpaid tax credits, and denial of information access
- Cornucopia filed special appearance arguing it never signed the Assignment and was not bound by its Texas forum clause

Cornucopia Oil and Gas, LLC v. Berry

No. 14-25-00071-CV (Tex. App. – Houston, Dec. 18, 2025)

Holding

- Affirmed. Cornucopia consented to Texas jurisdiction through the Assignment's forum-selection clause, even though it never signed the Assignment, because the Amended JOA incorporated the Assignment and provided that it controls in a conflict

Reasoning

- Consent removes minimum-contacts analysis; review focuses on whether the forum clause applies and is enforceable
- Documents construed together : Assignment and Amended JOA executed within a day as one transaction; "is subject to the Assignment" plainly incorporates it
- "Subject to" in context: even if read as "subordinate to," the two forum clauses conflict and the Amended JOA says the Assignment controls. Either way, Cornucopia consented
- No extrinsic evidence: no ambiguity argued or found; draft history (Texas-to-Delaware change) could not be considered

Cornucopia Oil and Gas, LLC v. Berry

No. 14-25-00071-CV (Tex. App. – Houston, Dec. 18, 2025)

Practical Tips

- Reconcile Forum-Selection and Conflict Clauses Across Multiple Instruments
  - Cornucopia was bound to a Texas forum it did not sign because the JOA it signed was "subject to" the Assignment, and the Assignment controlled in a conflict. Resolve conflicting provisions deliberately and include a clear order-of-precedence provision.

- Treat "Subject To" and Incorporation-by-Reference Language as Substantive
  - A single "subject to the Assignment" phrase pulled the entire Assignment into the JOA. Flag every cross-reference, obtain each referenced document, and recognize that signing one instrument can bind a party to terms in another it never signed

Zarvona Energy LLC v. Black Stone Minerals Co., L.P.

No. 09-25-00012-CV (Tex. App. – Beaumont, Mar. 12, 2026)

Parties

- Appellants: Zarvona Energy LLC and Zarvona III-A, LP, Lessee
- Appellees: Black Stone Minerals Company, L.P. and Sugarberry Minerals LP, Lessors

Court/Jurisdiction

- Court of Appeals of Texas, Ninth District; Texas law

Nature of Dispute

- Whether two oil and gas leases (245 acres and 7,141.92 acres in Tyler and Polk Counties) terminated as to pooled-unit acreage under a 90-day cessation-of-production clause when units were unprofitable for a 91-day period (April–June 2020)

Zarvona Energy LLC v. Black Stone Minerals Co., L.P.

No. 09-25-00012-CV (Tex. App. – Beaumont, Mar. 12, 2026)

Key Facts

- 2005 leases with identical terms: habendum (“so long as oil/gas produced in paying quantities”), 90-day cessation clause (§11.0(b)), 90-day continuous-development clause (§10.0), and retained-acreage clause (§3.0) terminating non-producing units “Following” the §10.0 period
- Black Stone pooled four units (Clarke, Simmons, Delta, Woods) with producing wells before primary term expired; no new well within 90 days, so leases terminated except as to producing pooled units
- Zarvona acquired interests in 2018; drilled two new producing wells on the Clarke Unit in 2022
- Trigger: lessors' uncontroverted expert showed all four units operated at a loss for 91 consecutive days (April–June 2020); Blackstone filed partial release (Sept. 2023) claiming ~1,562.7 Clarke acres terminated; Sugarberry followed early 2024
- Zarvona argued paying quantities must be judged under Clifton v. Koontz (reasonably-prudent-operator standard over a reasonable period), not a mechanical 90-day profit/loss calculation

Zarvona Energy LLC v. Black Stone Minerals Co., L.P.

No. 09-25-00012-CV (Tex. App. – Beaumont, Mar. 12, 2026)

Holding

- Reversed and rendered partial summary judgment for Zarvona: the retained-acreage clause is a one-time "snapshot" (no rolling terminations), and the 90-day cessation clause does not apply unit-by-unit or define the measuring period when production has not ceased.

Reasoning

- Anti-forfeiture rule: automatic termination requires language “so clear, precise, and unequivocal” it can be given no other reasonable meaning; ambiguity resolved against forfeiture
- Mutual subordination creates ambiguity: §1.1 is “subject to the other provisions” while §11.0(b) begins “Unless maintained by other provisions”; Clifton reasonably-prudent-operator test applies rather than mechanical 90-day calculation
- Lease-wide, not unit-by-unit: production on even a small portion holds the whole tract; nothing calls for terminating individual units based on a 90-day cessation from that unit alone
- Snapshot, not rolling: “Following” the §10.0 period tells when the clause applies (once) but does not clearly provide for recurring terminations; anti-forfeiture rule precludes reading it as rolling

Zarvona Energy LLC v. Black Stone Minerals Co., L.P.

No. 09-25-00012-CV (Tex. App. – Beaumont, Mar. 12, 2026)

Practical Tips

- Understand Termination Triggers in Your Lease
  - Because §11.0(b) was subordinate to the habendum, the court applied the Clifton reasonably-prudent-operator test rather than a mechanical 90-day calculation; check whether the cessation clause is a standalone special limitation or is qualified by "subject to" language

- Understand how the Habendum, Cessation, Development, and Retained-Acreage Provisions Interact
  - Mutual "subject to" cross-references created ambiguity and defeated forfeiture. Chart the savings-clause stack, define one controlling termination standard and measuring period, and add an order-of-precedence provision so it is unambiguous whether termination is automatic

May v. INEOS USA Oil & Gas LLC

No. 25-BC04B-0007, 2026 Tex. Bus. 14 (Mar. 27, 2026)

Parties

- Plaintiffs: Robert S. May, et al., Farmors
- Defendants: INEOS USA Oil & Gas LLC, et al., Farmees

Court/Jurisdiction

- Business Court of Texas, Fourth Division; Texas law

Nature of Dispute

- Whether farmout agreements conveyed leases upfront or granted a right to earn; what triggers reversion; whether earned-acreage obligations are covenants or conditions; and how "Payout" (triggering the farmors' 30% back-in) is calculated

May v. INEOS USA Oil & Gas LLC

No. 25-BC04B-0007, 2026 Tex. Bus. 14 (Mar. 27, 2026)

Key Facts

- Two 2009 contracts (Farmout Agreement + partial Assignment) on two Eagle Ford Shale leases in McMullen County, Texas. Farmors assigned leases to Farmees, reserving a reversionary interest in all assets “except for those Assets earned by Grantee upon the drilling of Earning Wells to Earned Depths”
- Under the contracts, plaintiffs assigned the leases to defendants while reserving several interests: a reversionary interest in “unearned” assets; an overriding royalty interest; a 25% interest in the initial test well; and a 30% reversionary “back-in” interest triggered upon “payout”
- Reversion trigger: reserved interest reverts “upon the cessation of continuous drilling operations.” Farmees must provide a legal description of Earned Acreage before drilling and file a “designation of record” within 30 days of completion
- Post-event filing requirements: 30-day earned-acreage designation; 60-day back-in declaration after Payout; farmor may self-help file if farmee fails to record
- Parties agreed the Contracts are unambiguous; compliance/designation questions and which assets were actually "earned" were NOT before the court at this stage

May v. INEOS USA Oil & Gas LLC

No. 25-BC04B-0007, 2026 Tex. Bus. 14 (Mar. 27, 2026)

Holding

- Partial summary judgment granted in part for Defendants: the Contracts conveyed a vested fee simple determinable upfront; reversion occurs only upon cessation of continuous drilling; Payout is calculated Earning-Well-by-Earning-Well.

Reasoning

- Vested fee simple determinable: the Contracts conveyed leases upfront via conditional assignment (not an “agreement to transfer”); Defendants' interest vested immediately on execution, subject to Plaintiffs’ possibility of reverter
- Single reversion trigger: no partial termination/reversion until cessation of continuous drilling operations; failure to file earned-acreage designations does NOT trigger reversion (designations are covenants, not conditions)
- Special limitation, not forfeiture: earned-acreage provisions impose a special limitation, so upon cessation of drilling, leases automatically revert except as to earned assets
- Payout is Earning-Well-by-Earning-Well: 30% back-in triggered at Payout per Earning Well (aggregating costs on Earned Acreage); non-earning wells cannot independently trigger Payout; recitals and course of performance disregarded

May v. INEOS USA Oil & Gas LLC

No. 25-BC04B-0007, 2026 Tex. Bus. 14 (Mar. 27, 2026)

Practical Tips

- Verify Language of Agreement Matches Intent of Parties
  - This was a conditional assignment vesting a fee simple determinable in the farmee immediately, not a mere right to earn. If it is an "agreement to transfer" (farmee earns only after performing) rather than a "conditional assignment" (vests upfront, subject to divestment), language should reflect that and provide a mechanism for the assignment
- Understand the Reversion Trigger
  - Reversion occurred only upon cessation of continuous drilling; failure to file designations did NOT cause reversion. Review (or draft) the agreement with clear triggering actions and identify covenants that need to be monitored.

Texas Oilfield Theft Prevention Package

Signed into law in 2025 – Effective September 1, 2025

What It Is

- Anti-oilfield-theft package enacted by the 89th Texas Legislature. Targets organized theft of petroleum products and oilfield equipment.

Key Bills

- **HB 48 (Organized Oilfield Theft Prevention Unit):** Unit is headquartered in the Permian Basin and covering 36 West Texas counties. The unit has statewide authority to target organized criminal rings stealing crude oil, refined products, and heavy oil and gas equipment.
- **SB 494 (Petroleum Products Theft Task Force):** Task force under the Railroad Commission of Texas composed of industry stakeholders, energy trade associations, and law enforcement. Reviews theft laws, analyzes impacts on tax collection, and recommends law enforcement training procedures. Mandated to submit a comprehensive biennial report detailing security and legislative recommendations to state leadership by December 1 of each even-numbered year.
- **SB 1806 (Enhanced Penalties):** Strengthens criminal penalties and expands inspection and enforcement powers related to stolen petroleum products and oilfield equipment.
- **Federal — Protect the Permian Act:** Reintroduced by Rep. Tony Gonzales in 2026, this bill would increase federal penalties for stealing, transporting, or selling stolen oil and equipment, formally establish an FBI-led task force, and expand federal resources for local law enforcement in the Permian Basin.