

Texas Court Sides with Barnett Shale Mineral Interest Owners in Litigation Against Chesapeake, Total

Ruling denies summary judgment request by energy companies, allows lawsuits to move toward trial

FORT WORTH, Texas – A Tarrant County judge has rejected efforts by Chesapeake Exploration and Total E&P USA to dismiss claims in multidistrict litigation (MDL) filed by North Texas mineral interest owners over “sham” transactions associated with royalty payment calculations, clearing the way for the “sham” transactions claim to proceed.

Attorneys Daniel H. Charest and Spencer Cox of Dallas, of Burns Charest LLP, and co-liaison counsel James Key orchestrated the successful defense to the oil companies’ summary judgment motion. On June 5, 2018, Tarrant County District Court Judge Dana Womack denied the motions, which allow the claim to move forward.

In the lawsuit, mineral owners in the Barnett Shale formation in North Texas argue that the wellhead sale of gas between Chesapeake and Total affiliates should be disregarded when calculating royalties because the practice qualifies as a “sham” transaction under Texas law. The court’s ruling rejects legal challenges by Chesapeake and Total and ensures that Texas juries will hear evidence and decide whether the oil and gas operators used affiliate transactions to avoid contractual obligations to pay the full amount of royalties.

“The Texas Supreme Court recognized the ‘sham’ transaction theory many years ago, and operators have tried to avoid its implications ever since,” said Mr. Charest.

“We say Chesapeake and Total have benefitted from the higher value of downstream sales while using affiliate ‘sales’ at the wellhead to avoid their obligation to pay fair royalties. On those facts,” he continued, “courts can disregard corporate formalities and calculate royalties as the leases intended on the higher prices.”

The case is *In re Chesapeake Barnett Royalty Litigation #2*, MDL No. 48-000000-15 in the 48th District Court in Tarrant County. Mr. Charest represents several prominent mineral owners, including Black Stone Minerals and MAP Royalty, and serves as co-liaison counsel for the MDL plaintiffs. Mr. Cox has played a key role in the Barnett MDL and in securing the favorable summary judgment ruling.

The attorneys at Burns Charest have years of experience in complex oil and gas royalty disputes. The firm secured several confidential results against Chesapeake over unpaid oil and gas royalties for mineral owners including members of the Bass family in Fort Worth as part of a separate lawsuit in North Texas and other South Texas ranches in the Eagle Ford Shale.

Burns Charest is a Dallas and New Orleans-based trial law firm with a national practice representing consumers and businesses. The firm represents clients in large, complex class actions; antitrust claims; oil and gas royalty disputes; environmental pollution cases; and asbestos exposure claims. To learn more, visit <http://www.burnscharest.com>.

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