

INSTITUTE FOR ENERGY LAW



THE CENTER FOR AMERICAN
AND INTERNATIONAL LAW

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AMERICAN BAR ASSOCIATION

Section of Environment,
Energy, and Resources

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AMERICAN BAR ASSOCIATION

Section of Litigation

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Institute for Energy Law
of The Center for American
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and

American Bar Association
Section of Environment,
Energy, and Resources

and

American Bar Association
Energy Litigation Committee
of the Section of Litigation

*"The conference had great
speakers and timely topics"*

-- 2009 Participant

9th Annual Energy Litigation Conference

October 12, 2010

Hilton Post Oak Hotel
Houston, Texas

Hosted Luncheon:

Special Achievement in Energy Litigation Award
Honoring

JACK BALAGIA, JR.

Vice President and General Counsel
Exxon Mobil Corporation

Highlights:

- Current Developments in Oil & Gas Litigation Update
- Mock Jury Closing Arguments and Analysis
- Flashpoints in Joint Operating Agreements and Master Service Agreements
- Urban Development Problems Panel
- Bankruptcy Perspectives on Oil & Gas Litigation Issues



6 hours of MCLE credit available including .5 hours of ethics.
AAPL credit available.

CONFERENCE
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& Associates, P.C.
Houston, Texas

*"The topics were relevant
and interesting"*

*"Excellent speakers...
Great presentation &
knowledge"*

-- 2009 Participants



9th ANNUAL ENERGY LITIGATION
CONFERENCE

Schedule

8:00 REGISTRATION

8:45 WELCOME

9:00 WHAT MATTERS TO YOUR DECISION MAKERS?

PART 1: MOCK CLOSING ARGUMENTS

Watch Mark Wawro and Murray Fogler deliver closing arguments to 10 mock jurors. The fact pattern is based on claims for fraudulent inducement to enter into lease agreements and loss of property value. After the closing arguments, trial consultants Bill Grimes and Eliza Shepherd will lead the mock jury in a deliberation exercise and directed discussion. You won't want to miss the results in Part 2 at 4:30 pm.

PLAINTIFF'S COUNSEL

Mark Wawro, *Susman Godfrey LLP, Houston, Texas*

DEFENSE COUNSEL

Murray J. Fogler, *Beck, Redden & Secrest, L.L.P., Houston, Texas*

JURY CONSULTANTS

Bill Grimes, *Zagnoli McEvoy Foley LLC, Chicago, Illinois*

Eliza Shepherd, *Zagnoli McEvoy Foley LLC, Chicago, Illinois*

10:00 OIL, GAS AND MINERAL LEASING: WHEN IS A LEASE A LEASE?

This presentation will focus on the formation of oil, gas and mineral leases in Louisiana and Texas. During the past several years, the "boom" and then the "bust" in leasing activities for properties within the Haynesville Shale and other areas resulted in a significant amount of litigation. A number of cases instituted by mineral interest owners sought enforcement of agreed-upon bonus payments and other lease terms even though offers were rescinded during title examination periods or prior to the mineral interest owners executing valid leases. This topic will explore the legal principles in Louisiana and Texas surrounding the formation of a valid lease, discuss the case law interpreting such principles and include an overview under the current statutory and case law for how operators can avoid litigation arising out of failed lease negotiations. This timely topic will provide attendees involved in negotiating oil, gas and mineral leases with practical insights and tips on how they can protect themselves from litigation in this area.

Kenneth Klemm, *Baker, Donelson, Bearman, Caldwell & Berkowitz, PC*
New Orleans, Louisiana

10:30 CURRENT DEVELOPMENTS IN ENERGY LITIGATION

An overview of recent significant decisions and developments in energy litigation, including recent case law on lease disputes, and operating issues, including a discussion of potential Deepwater Horizon claims.

Elizabeth N. Miller, *Scott, Douglass & McConnico, L.L.P., Austin, Texas*

11:15 BREAK

11:30 FLASHPOINTS IN JOINT OPERATING AGREEMENTS

A review of a selected group of misunderstood and ignored issues commonly encountered in operating agreements. Why they occur, what they mean and various ways to address them.

Dick Watt, *Watt Beckworth Thompson & Henneman, L.L.P., Houston, Texas*

12:00 FLASHPOINTS IN MASTER SERVICE AGREEMENTS

This session will examine a variety of dispute related issues which should be considered when negotiating master service agreements. The discussion will also address examples of litigation and pre-litigation disputes involving master service agreements and how common contractual provisions influence these disputes.

Brit T. Brown, *Beirne, Maynard & Parsons, L.L.P., Houston, Texas*

12:30 HOSTED LUNCHEON

SPECIAL ACHIEVEMENT IN ENERGY LITIGATION AWARD

Honoring

JACK BALAGIA, JR.

Vice President and General Counsel

Exxon Mobil Corporation

Irving, Texas

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McDermott Will & Emery LLP

McGinnis, Lochridge & Kilgore L.L.P.

The University of Tulsa College of Law

2:15 LEGAL CONSEQUENCES AND ETHICAL IMPLICATIONS OF PHYSICAL EVIDENCE SPOILIATION

A discussion of duties relating to the preservation of physical evidence and the potential consequences of failing to recognize and abide by them.

Jack O'Neill, *DLA Piper, Houston, Texas*

2:45 PANEL: URBAN PROBLEMS

A discussion of the unique problems that arise when oil and gas development occurs in an urban environment. The impact of local land use regulations and the accommodation doctrine will be discussed.

Michael J. Gallagher, *Davis Graham & Stubbs LLP, Denver, Colorado*

Shayne D. Moses, *Moses, Palmer & Howell, L.L.P., Fort Worth, Texas*

Russell L. Schetroma, *Steptoe & Johnson, PLLC, Meadville, Pennsylvania*

3:45 BREAK

4:00 OIL & GAS LITIGATION ISSUES: THE BANKRUPTCY PERSPECTIVE

Includes a discussion of defenses to avoidance actions in the case of unrecorded interests; the vitality of UCC Sec. 9.343 (producers' liens and royalty claims) in light of SemCrude; the enforceability of preferential rights in bankruptcy; the enforceability of mineral contractors' liens in bankruptcy and the use of lien rights as a defense to a preference action; and safe harbor defenses to avoidance actions.

Rhett G. Campbell, *Thompson & Knight LLP, Houston, Texas*

4:30 WHAT MATTERS TO YOUR DECISION MAKERS?

PART 2: MOCK JUROR FEEDBACK ON CLOSING ARGUMENTS

The mock jury has deliberated and the findings are in! In this interactive session, the trial consultants will share video clips, analysis and commentary about the jurors' reactions, decision making process and verdict in the test case. How has the BP oil spill in the Gulf affected attitudes and decisions? Find out the answer and other themes uncovered in the exercise.

Bill Grimes, *Zagnoli McEvoy Foley LLC, Chicago, Illinois*

Eliza Shepherd, *Zagnoli McEvoy Foley LLC, Chicago, Illinois*

5:15 ADJOURN

Sponsored by

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
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ABOUT THE INSTITUTE FOR ENERGY LAW

The Center for American and International Law (CAIL) is a non-profit organization which since 1947 has served lawyers and law enforcement officials from all 50 U.S. States and over 131 countries. The Institute for Energy Law (IEL) is one of 8 divisions of the Center.

Founded in 1959, the Institute for Energy Law provides advanced, continuing legal education for lawyers and other professionals concerned with the energy industry. The Institute through its programs, scholarly publications and membership activities offers an important forum on contemporary issues affecting the industry. The Institute's record of educational achievements has been aided by the support of many of the world's leading companies, lawyers, and energy professionals.

WHY BECOME A MEMBER?

Members are entitled to serve or to appoint one or more persons to serve on the Institute's Advisory Board, depending on the membership level. Advisory Board members are entitled to tuition-free attendance at the *Annual Oil and Gas Law Conference* or the *Annual Power and Alternative Energy Law Conference*, and discounted attendance at all other Institute programs. Advisory Board members also receive the Institute's quarterly e-newsletter, *The Energy Law Advisor*, discounts on all other Institute publications, access to the Institute's members-only website, and the opportunity to participate in the Institute's practice committees, online forums and networking events.

For more information, visit IEL online at www.cailaw.org/iel.

ABOUT THE AMERICAN BAR ASSOCIATION

SECTION OF ENVIRONMENT, ENERGY, AND RESOURCES

With more than 400,000 members, the American Bar Association is the largest voluntary professional membership organization in the world. As the national voice of the legal profession, the ABA works to improve the administration of justice, promotes programs that assist lawyers and judges in their work, accredits law schools, provides continuing legal education, and works to build public understanding around the world of the importance of the rule of law.

The ABA Section of Environment, Energy, and Resources is the premier forum for strategies and information for environmental, energy and resource professionals. It represents more than 10,000 members with a wide range of professional interests. The Section keeps its members abreast of important trends, current court decisions, legislative initiatives and statutes concerning environmental, natural resources, and energy law. For up-to-date information on environmental, energy, and resources law, the Section has a proven history of developing over 500 quality, substantive CLE programs and numerous publications including books, newsletters, magazines and digests.

Additionally, the Section is proud of its outreach activities that engage the legal community as well as the public, including, programs such as the ABA Award for Excellence in Environmental, Energy, and Resources Stewardship, ABA Diversity Fellowships in Environmental Law, and the ABA-EPA Law Office Climate Challenge.

For more information about the ABA Section of Environment, Energy, and Resources, visit www.abanet.org/environ/.

ENERGY LITIGATION COMMITTEE OF THE SECTION OF LITIGATION

The Energy Litigation Committee aims to provide its membership with up-to-date litigation-focused information on the production, transportation and marketing of oil, natural gas and electricity, as well as federal regulation of those industries. The Committee reports to members on significant case law, law review articles and seminars, and produces informative programs on topics of interest to the lawyer who litigates energy-related cases.

For more information about the ABA Energy Litigation Committee of the Section of Litigation, visit www.abanet.org/litigation/committees/energy/home.html.



Section of Environment,
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PAYMENT MUST ACCOMPANY REGISTRATION

REGISTRATION

9th Annual

ENERGY LITIGATION CONFERENCE

October 12, 2010

Hilton Post Oak Hotel • Houston, Texas

Registration includes the program, course materials on CD and online, continental breakfast, the hosted luncheon and the networking reception for conference registrants and faculty.

Check applicable box:	Received by 10/1/10	Received after 10/1/10
Regular registration fee	<input type="checkbox"/> \$395	<input type="checkbox"/> \$445
IEL Members:		
Advisory Board Member	<input type="checkbox"/> \$295	<input type="checkbox"/> \$345
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Add \$30 if you would like to receive the course materials in a printed binder.
(in addition to CD and online)

I cannot attend. Please send the course materials (printed binder and CD)
for \$145.

Name _____

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City, State, Postal Code, Country _____

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GENERAL INFORMATION

CANCELLATION POLICY: Tuition less a \$50 cancellation fee will be refunded upon receipt of written cancellation received by October 1, 2010. Email cburkel@cailaw.org. After this date, no refunds, but substitution of attendees for this program will be permitted. Registrants not entitled to a refund will receive the course materials.

HOUSING: The cost of housing is not included in tuition. However, rooms (in limited number) have been reserved at the Hilton Post Oak Hotel, 2001 Post Oak Blvd., Houston, TX 77056. Registrants should call (713) 961-9300 or 1-800-HILTONS and advise them you are attending the Energy Litigation Conference to receive a reduced room rate of \$159 + 17% occupancy tax. The last day to obtain this special rate is Sept. 23, 2010. Reservations may also be made online through the conference details page at http://www.cailaw.org/iel/ELit_10details.html.

NONDISCRIMINATION POLICY: The Center for American and International Law does not discriminate on the basis of race, color, sex, religion, national origin, age, disability, veteran status or any other protected status in educational activities, scholarship programs or admissions.

MCLE CREDIT: This program has been approved by the State Bar of Texas for 6 hours, including .5 hours of ethics. Course ID Number: 901206067. Sign-in sheets and/or certificates of attendance will be available for ALL states.

AAPL CREDIT: This program has been accredited for 6.0 RL/RPL continuing education credit(s), 6.0 CPL recertification credit(s), which includes 0 CPL/ESA recertification credit(s) and .5 Ethics credit(s), for a total of 6.0 credit(s). Certificates of attendance will be available.



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SEE INSIDE FOR CONFERENCE SCHEDULE

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