



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

OIL & GAS LAW

LAW 721/SEC. 1

FALL 2021

PROFESSOR EMEKA DURUIGBO

Course Schedule: Mon., Wed., at 11.00 am to 12.15 pm

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THE PROFESSOR

NAME: Emeka Duruigbo

TELEPHONE: 713-313-1135

EMAIL: emeka.duruigbo@tmslaw.tsu.edu

LOCATION: Room-221D

OFFICE HOURS: Monday and Wednesday
9: 00 am to 11:00 am.
Friday
11:45 am to 1:45 pm
(You may also make an appointment)

NOTE FROM THE PROFESSOR:

Please feel free to walk-in if I am available in my office.



SUCCESS TIPS

1. Bring your mind to class.
2. Be in class without fail – if possible.
3. Take accurate and complete notes in class.
4. Read all cases and other material before the assigned dates or soon thereafter.
5. Participate in class discussions.
6. Review past bar exam questions.
7. Be ready to take responsibility for your failure and hope not to blame anyone or anything.

SUCCESS TIP # 1: “Blessed is the one who reads”
Rev. 1:3 NIV

SUCCESS TIP # 2: “If the ax is dull and its edge unsharpened, more strength is needed, but skill will bring success.”
Eccl. 10:10 NIV

SUCCESS TIP # 3: *Qui sentit commodum sentire debet et onus et contra*

COURSE BOOKS & MATERIAL

The materials for the course are Lowe, Anderson, Smith, Pierce, Kulander & Ehrman, *CASES & MATERIALS ON OIL AND GAS LAW* (7th ed. 2018), various forms used in oil and gas regulatory orders and transactions, several recent cases and other materials. The forms are available in the *Forms Manual to Accompany Cases and Materials on Oil and Gas Law* (7th ed. 2018); the cases can be accessed on Westlaw or Lexis.

To save money on books, you may share copies of the forms manual with other students or borrow from the law library, although owning a copy is highly recommended if you anticipate practicing in this area.

COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION:

This course focuses on the basic legal rules and principles governing the ownership and development of oil and gas. Its central objective is a comprehensive presentation and understanding of the substantive law of oil and gas in Texas and beyond. A substantial portion of our class time will be devoted to determining title to the resource, conveyancing issues, and the interpretation, operation, and drafting of the basic development contract: the oil and gas lease. We will also consider secondary contracts used in the upstream sector of the oil and gas industry, including joint operating agreements, farmout agreements and drilling contracts, among others. Developments in the international oil and gas industry may also be examined.

OBJECTIVE:

The key objective is to provide a basic understanding of relevant concepts to students interested in building a career in the oil and gas industry.

STUDENT LEARNING OUTCOMES

During the course of the class, and by the end of the course, students would be better equipped to engage in legal analysis, fact analysis, problem solving, resolution of ethical dilemmas, organization and management of lawyering tasks, and effective communication.

Specifically, students will be able to:

- 1) Demonstrate deep knowledge and understanding of rules, contracts and institutions governing oil and gas exploration and production operations;
- 2) Identify the type of commercial arrangements that are unique to the oil and gas industry;
- 3) Demonstrate advanced ability to analyze complex legal problems regarding petroleum and related transactions;
- 4) Communicate knowledge and results effectively and accurately, in oral and written presentations, in a manner that is appropriate to the discipline and consistent with the current needs of the legal job market;
- 5) Undertake tasks assigned by the professor, working independently and effectively, while managing time efficiently.

GRADING

Both the interim and final examinations will consist exclusively of essay questions. In determining your course grade, the final exam will be weighted by 60%, the midterm by 30% and class participation (including case briefs) by 10%.

ACCOMMODATIONS

If you require special accommodations, please fill out the necessary forms with the Dean's office. Your application and documentation will remain confidential. Your prompt attention will allow the law school to accommodate you, as soon as it has been made aware of your situation.

Please see:

http://www.tsulaw.edu/student_affairs/docs/2011-2012AccommodationsHandbook.pdf

PARTICIPATION, ATTENDANCE & PROFESSIONALISM

Every student is required to submit a one-page case brief of one case (of his or her own choice) from the assigned reading for the day via email to **gascasebriefs@gmail.com** prior to each class session. **Failure to submit case briefs, answer questions during class or any other indication of a lack of preparation for class will attract negative points.** Briefs are not required if no case is included in the reading assignment for the day.

Class participation is a factor in determining the final grade. It is expected that all students attend all classes and submit the required briefs. Students who neglect this requirement or miss class sessions without reasonable justification should expect that their grade may be adversely affected in a significant way. Strong participation and performance in class may help your grade in marginal cases, including an adjustment up one grade increment.

ACADEMIC CALENDAR

FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)

Orientation	Mon-Fri	August 9-13, 2021
First Day of Class	Monday	August 16, 2021
Last Day to ADD/DROP	Wednesday	August 18, 2021
Labor Day (NO CLASSES)	Monday	September 6, 2021
<i>Purge of all unpaid course selections</i>	Wednesday	September 15, 2021
Mid Term Examinations	Mon – Fri	October 11-15, 2021
Last Day to Drop a Class	Friday	November 5, 2021
Last Day of Classes	Tuesday	November 23, 2021
First Year Professors' Grades due	Tuesday	November 23, 2021
Reading Period	Wednesday	November 24, 2021
Thanksgiving Holiday	Thur – Fri	November 25-26, 2021
Reading Period	Sat – Sun	November 27-28, 2021
Final Examinations	Mon – Fri	Nov 29 – Dec. 10, 2021
Commencement Exercises	Saturday	December 11, 2021

Please note that the calendar events and /or dates are subject to change.



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POLICIES & PROCEDURES

There will be a midterm and a final examination. Both the midterm and final examination will be timed, in class, closed book and will consist exclusively of essay questions. The final examination will be for a duration of 3 hours.

The class syllabus is only tentative. *Readings listed in the syllabus are subject to change during the semester.* I will distribute any revised syllabi during the semester

READING ASSIGNMENTS

Tentative Schedule

READ THESE PAGES	BEFORE THIS CLASS	ANTICIPATED CLASS COVERAGE
0-0	8.16	Welcome; Introduction to Oil and Gas Industry
2-55 ----- Duruigbo, "The Global Energy Challenge," 21 <i>Georgetown International Environmental Law Review</i> 395, 395-398 (2009)	8.18	Basic Petroleum Geology - Conventional Oil and Gas Reservoirs Unconventional Sources of Oil and Gas; Types of Oil and Gas
56-67; 92-111; 690-696	8.23	Basic Legal Doctrines - Ownership Theories; History and the Emergence of the Rule of Capture; Limitations on the Rule of Capture Ownership After Extraction
112-116	8.25	Ownership and Loss of Ownership - Patterns of Oil and Gas Ownership ASSIGNMENT: PROBLEM ON P. 118
112-163 Villareal v. Grant Geophysical, Inc. 136 S.W.3d	8.30	Trespass, Related Actions and Technology REVIEW PROBLEM ON P. 118
163-186	9.1	Loss of Ownership through Non-Use: Adverse Possession Loss of Ownership through Non-Use: Abandonment

		ASSIGNMENT - BAR EXAM QUESTIONS (AP)
0-0	9.6	LABOR DAY (NO CLASS)
187-194	9.8	<p>The Oil And Gas Lease - Introduction: Lessor/Lessee Rights and Interests – (Please note: These two leases are part of the assignment for all of the discussion on Leases and will be referred to repeatedly during the lecture and discussions.)</p> <p>REVIEW OF BAR EXAM QUESTIONS (AP)</p>
<p>194-226;</p> <p>A.A.P.L. Form 675 Oil & Gas Lease, Forms Manual pp. 101 - 105; Barnett Shale Oil and Gas Lease, Forms Manual pp. 128-141.</p> <p>AAPL Lease clause 1; Barnett Shale Lease clause 1;</p> <p>AAPL Lease clauses 2 (last sentence) & 7; Barnett Shale 3, 11, 12 & 22.</p> <p>Exxon Corp. v. Pluff, 94 S.W.3d 22 (Tex.App. – Tyler 2002, pet.denied</p>	9.13	<p>Granting Clause - Lessee’s Express and Implied Rights</p> <p>Express Limitations on Lessee’s Rights; Oil and Gas Taxation</p>
<p>226-251</p> <p>Barnett Shale Lease clause 7</p>	9.20	<p>Duration - The Primary Term</p> <p>The Earliest Form Lease: The “Or” Lease - Appalachian & California Leases, Forms Manual Note 3, pp. 160-162 - The “Standard” Form Lease: The “Unless” Lease, AAPL Lease clauses 1 & 5 - The “New” Form Lease: The “Paid-Up” Lease,</p>

		The Barnett Shale Lease, clause 1 Extending the Lease by Commencing Drilling Operations
251-272	9.22	The Secondary Term: Extending and Maintaining the Lease by Production ASSIGNMENT - BAR EXAM QUESTIONS
273-328 AAPL Lease clause 4	9.27	Common Law Constructive Production; Savings Clauses as Substitutes for Production Pooling Clause – Express and Implied Obligations; Common Lessor-protective Limitations on the Pooling Clause REVIEW OF BAR EXAM QUESTIONS
328-348;	9.29	Lessee Obligations: Express and Implied - Express Obligations (a) Royalty Payments;
433-440; 440-446	10.4	Lessee Obligations: Express and Implied - Express Obligations (b) Division Orders (c) Lessor's Remedies for Failure to Pay Royalties
348-412 HECI Exploration Co. v. Neel, 982 S.W.2d 881 (Tex. 1998)	10.6	Implied Covenants - The Implied Duty to Market The Duty to Protect the Lease: Implied Covenant Against Drainage
0-0	10.11	MIDTERM REVIEW
0-0	10.13	MIDTERM EXAMINATION
485-519	10.18	Concurrent Ownership – Co-tenancy Life Estates and Remainders
530-546; 1478-1485	10.20	The Executive Right “School Land”: The Texas Relinquishment Act

546-574	10.25	Conveyancing Issues – The Meaning of “Minerals,” “Coal” and Other Named Substances
575-605	10.27	Defining Boundaries: “Catch-all” and “Mother Hubbard” Clauses Fractional Interests: The <i>Duhig</i> Rule
642-653 696-736	11.1	Non-Apportionment Doctrine Conservation Law and Practice - Spacing and Density Regulations; Exception Locations
741- 806	11.3	Regulating Production Operations, Production and Marketing Small Tracts and Compulsory Pooling
806-848 1126-1171	11.8	Unitization Joint Operating Agreements
1085-1115 1171-1200	11.10	Farmout Agreements Drilling and Service Contracts
Ext. Materials 925-970	11.15	Environmental Issues - Common Law & Statute Economic Approach
736-741 Ext. Materials	11.17	Plugging and Abandonment - “State requirements”
0-0	11.22	FINAL EXAM REVIEW



THURGOOD MARSHALL SCHOOL OF LAW

COVID-19 INFORMATION SHEET

HEALTH AND SAFETY ON CAMPUS

1. The University does not require COVID-19 vaccination as a condition for attending school. As a protective measure, students are encouraged to get vaccinated. The St. Luke's vaccination clinic, located on campus in the Nabrit Science Building, is open and accessible to the entire University community, Monday-Friday, 9 a.m. – 7 p.m. There is no cost for the vaccination.
2. Students are expected to continuously self-screen for the symptoms of COVID-19. If you have symptoms and are not fully vaccinated, you should call the Student Health Center at (713) 313-7173. Please remember to exercise caution and be courteous of your fellow students.
3. Students who experience a medical emergency on campus should call (713) 313-7000. If off campus, call 911. Please inform the dispatch operator if you are experiencing shortness of breath, difficulty breathing, coughing, or have a fever.
4. Students who are unable to attend classes for health reasons, including those relating to COVID-19, should immediately contact the Associate Dean of Student Services, Amy Ratra (miamy.ratra@tsu.edu), for further guidance.
5. Students who contract the COVID-19 virus must report the information to the Associate Dean of Student Services, Amy Ratra, and the Student Accessibility Services Office (SASO), by phone at 713-313-4210 or by email at disabilityservices@tsu.edu.
6. Students who contract the COVID-19 virus will be required to quarantine under the advice of Student Accessibility Services Office (SASO). Such students are required to submit Release of Care documentation from a licensed health care professional to SASO and notify the Associate Dean of Student Services, Amy Ratra, before they return to the law school.
7. While on campus and in classrooms, students are encouraged to conduct themselves in a manner conducive to the health and safety of the entire TSU community.
 - a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
 - b. Face coverings (over the nose and mouth) are not required as per the guidelines from the State of Texas. However, students are strongly encouraged to wear face coverings (over the nose and mouth) while in the law school building.

- a. Students should wash or disinfect their hands before each class and after physical interaction with other persons in the classroom.
 - b. Students should maintain classroom cleanliness. Students should create a clean classroom environment by putting away unnecessary personal items and cleaning their seating area intermittently.
 - c. Students who do not conduct themselves on campus in a manner conducive to the health and safety of those with whom they come in contact may be subject to discipline up to expulsion from law school.
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ATTENDANCE POLICY

8. Law school classes will be fully in-person this fall. The law school attendance policy will be strictly enforced.
 9. Students who contract the COVID-19 virus will be barred from attending in-person classes until submitting Release of Care documentation from a licensed health care professional to Student Accessibility Services Office (SASO). Such students will be required to study and keep up with the prescribed readings.
 10. Students that are excused from in-person class attendance because they contracted the COVID-19 virus should designate a student in each of their classes to make audio recordings of the lectures. Professors are required to allow such recordings to be made. Furthermore, professors are required to meet with such students to answer questions about the materials covered during their COVID-19-related absence.
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UNIVERSITY RESOURCES

11. COVID-19 TESTING

Location: H&PE 109

Hours of Operation: No appointments are necessary. Tuesday – Thursday 8 a.m. – 11:30 p.m. Results will be available within 24 hours if the test is taken by 11:30 a.m.

12. The St. Luke's vaccination clinic is open and accessible to all University personnel and community, Monday – Friday, 9 am – 7 pm in the Nabrit Science Building.

13. STUDENT HEALTH SERVICES

- a. Student Health Services is open 8:00 a.m. – 5:00 p.m. Monday – Friday by appointment only.

- b. A nurse is available at (713) 313-7173, Monday – Friday, from 8:00 a.m. – 5:00 p.m. to schedule appointments.
- c. Appointments will be scheduled virtually and in-person, as needed.
- d. If you are currently enrolled and need a copy of your immunization record go to <https://tsu.medicatconnect.com>.
- e. If you are off campus but in the local area and need assistance contact the Harris County Health Department COVID-19 hotline: www.ReadyHarris.org. If you don't have the internet, call (832) 927-7575 or Houston Health Department COVID-19 Call Center: (832) -393-4220.

14. UNIVERSITY COUNSELING CENTER

- a. The University Counseling Center (UCC) is providing convenient Telemental Health Services to all students.
- b. Students may call 713-313-7800 to request an appointment. If someone does not answer, please leave your T-Number, name, and a contact number. Students may also complete this form to request an appointment, and someone will contact them during business hours:
https://forms.office.com/Pages/ResponsePage.aspx?id=ViJL72KUK0Su4urH7Z-1ZFNI2YN0WsVPstLk4r8W_X1UOUk2SUxMRVoyVEdQTVkzV09YRVBLNU5OTy4u.
- c. Students may receive a call from a blocked or private number, please answer, as it maybe your counselor trying to contact you.
- d. If a student experiences a crisis outside of regular business hours, the student can call 833-848-1765.
- e. Other resources for support outside of the UCC include:
 - i. Crisis text line – Text Steve to 741-741.
 - ii. National Suicide Hotline - 800-273-TALK (8255).

TITLE IX INFORMATION

Texas Southern University is committed to fostering a safe learning environment. As professor, one of my responsibilities is to help create a safe learning environment in class. Texas Southern University and Federal Regulations (Title IX) policy prohibit discrimination based on sex and this includes sexual harassment, sexual violence and misconduct, dating violence, domestic violence, and stalking. Texas Southern University understands that these incidents can undermine a student's academic success, so Texas Southern University encourages students who have experienced sexual conduct prohibited by university policy to report these incidents when they happen to the University's Title IX Coordinator or University Confidential Resource so that the student can get the help they may need.

It is my goal that you feel able to share information related to your life experiences in classroom discussions, in your written work, and in one-to-one meetings. I will seek to keep information you share private to the greatest extent possible. However, I also have a mandatory responsibility to notify the University's Title IX Coordinator when I become aware of incidents of prohibited conduct that violate the university's Title IX policy.

Students may speak confidentially to the University Counseling Center. Please feel free to visit their website www.tsu.edu/ucc for more information about their services. Also, students may speak with the University's Title IX Coordinator by calling 713.313.1371 or emailing titleix@tsu.edu.