



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

OIL & GAS LAW

LAW 721/SEC. 1

SPRING 2018

PROFESSOR EMEKA DURUIGBO

Course Schedule: Mon., Wed., Fri., at 11.00 am to 11.50 am

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THE PROFESSOR

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LOCATION: Room-221D

OFFICE HOURS: Monday, Wednesday and Friday
12 Noon to 3:00 p.m.
(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 (Flip: give all credit for success to professor).

Qui sentit commodum sentire debet et onus et e contra.

COURSE BOOKS & MATERIAL

The materials for the course are Lowe, Anderson, Smith & Pierce, CASES & MATERIALS ON OIL AND GAS LAW (6th ed. 2013), 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* (6th ed. 2015); 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 Texas oil and gas. 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, farm-out agreements and drilling contracts, among others. Developments in the international oil and gas industry may also be examined.

OBJECTIVE:

While this is not a bar review course, the class aims to get students to a level where they can more confidently approach Bar Exam questions in Texas Property. The Texas Bar Examination features **at least one Oil and Gas Law** question in virtually every February and July administration of the test.

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.

GRADING

In determining your course grade, the final exam will be weighted by 60%, the midterm by 30% and class participation 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

The class may be divided into “class discussion groups” (“CDG”) each composed of one-third of the students. CDGs will be assigned a day of the week for which they are responsible for briefing cases and leading discussions. Every CDG member should submit a one-page case brief of every assigned case (or summary of the assigned material where there are no cases) for the day via email to **gascasebriefs@gmail.com** before each class session. Failure to submit the case briefs, answer questions during class on the assigned day or any other indication of a lack of preparation for class will attract negative points.

Class participation is a factor in determining the final grade. It is expected that all students attend all classes and submit the required briefs or summaries. 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 2017 (SEVENTY DAYS OF CLASSES)

Orientation	Monday-Friday	August 14-18, 2017
First Day of Class	Monday	August 21, 2017
Last Day to ADD/DROP	Friday	August 25, 2017
Labor Day (NO CLASSES)	Monday	September 4, 2017
<i>Purge of all unpaid course selections</i>	Thursday	September 20, 2017
Mid Term Examinations	Mon – Fri	October 16-20, 2017
VETERANS DAY (NO CLASSES)	Friday	NOVEMBER 10, 2017
Thanksgiving Holiday	Thurs – Fri	November 23-24, 2017
Last Day of Classes	Thursday	November 30, 2017
Last Day to Drop a Class	Thursday	November 30, 2017
First Year Professors' Grades due	Thursday	November 30, 2017
Reading Period (NO CLASS)	Fri-Sun	December 1-3, 2017
Final Examinations	Mon –Fri	December 4-Dec. 15, 2017
Commencement	Saturday	December 16, 2017

SPRING SEMESTER 2018 (SEVENTY DAYS OF CLASSES)

School Opens	Tuesday	January 2, 2018
First Day of Class	Monday	January 8, 2017
Last Day to ADD/DROP	Friday	January 12, 2018
M L K Holiday (No Classes)	Monday	January 15, 2018
<i>Purge of all unpaid course selections</i>	Wednesday	February 7, 2018
President's Day Holiday (No Classes)	Monday	February 19, 2018
Mid Term Examinations	Mon – Fri	March 5– 9, 2018
Spring Break	Mon – Fri	March 12 – 16, 2018
Good Friday (No Classes)	Friday	March 30, 2018
Last Day of Classes	Wednesday	April 25, 2018
Last Day to Drop a Class	Wednesday	April 25, 2018
First Year Professors' Grades due	Wednesday	April 25, 2018
Reading Period (No Classes)	Thur. – Sun	April 26 - 29, 2018
Final Examinations	Mon- Fri	April 30 – May 11, 2018
Hooding Ceremony	Friday	May 11, 2018
Commencement	Saturday	May 12, 2018

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

TMSLAW REGISTRAR
Approved 5/31 2017

POLICIES & PROCEDURES

There will be a midterm and a final examination. Both the midterm and final examination will be closed book and will consist of essay questions.

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	1.8	Welcome; Introduction to Oil and Gas Industry
4-17; 17-44 ----- Duruigbo, "The Global Energy Challenge," 21 <i>Georgetown International Environmental Law Review</i> 395, 395-398 (2009)	1.10	Basic Petroleum Geology - Conventional Oil and Gas Reservoirs; Unconventional Sources of Oil and Gas [including Fracking]
53-67	1.12	Basic Legal Doctrines - Ownership Theories; History and the Emergence of the Rule of Capture
0-0	1.15	Martin Luther King Holiday – No Class
97-104; 609-617	1.17	Limitations on the Rule of Capture
104-115	1.19	Ownership After Extraction
115-119	1.22	Ownership and Loss of Ownership - Patterns of Oil and Gas Ownership
120-153; Villareal v. Grant Geophysical, Inc. 136 S.W.3d 265 (Tex.App. - San Antonio 2004).	1.24	Trespass, Related Actions and Technology
153-160	1.26	Loss of Ownership through Non-Use: Adverse Possession ASSIGNMENT - BAR EXAM QUESTIONS (AP)

160-175	1.29	Loss of Ownership through Non-Use: Abandonment REVIEW OF BAR EXAM QUESTIONS (AP)
176-182; A.A.P.L. Form 675 Oil & Gas Lease, Forms Manual pp. 146 - 151: Barnett Shale Oil and Gas Lease, Forms Manual pp. 176-187.	1.31	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.)
182-199; AAPL Lease clause 1; Barnett Shale Lease clause 1	2.2	Granting Clause - Lessee’s Express and Implied Rights
199-208; AAPL Lease clauses 2 (last sentence) & 7; Barnett Shale 3, 11, 12 & 22. Exxon Corp. v. Pluff, 94 S.W.3d 22 (Tex.App. – Tyler 2002, pet.denied)	2.5	Express Limitations on Lessee’s Rights; Oil and Gas Taxation
208-225	2.7	Duration - The Primary Term 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, The Barnett Shale Lease, clause 1
225-229 Barnett Shale	2.9	Extending the Lease by Commencing Drilling Operations

Lease clause 7		
230-249	2.12	The Secondary Term: Extending and Maintaining the Lease by Production ASSIGNMENT - BAR EXAM QUESTIONS
249-257	2.14	Common Law Constructive Production; Savings Clauses
0-0	2.16	REVIEW OF BAR EXAM QUESTIONS
0-0	2.19	Presidents' Day – No Class
257-279	2.21	Savings Clauses as Substitutes for Production
279-298; AAPL Lease clause 4	2.23	Pooling Clause – Express and Implied Obligations; Common Lessor-protective Limitations on the Pooling Clause
298-314; 382-388; 388-394	2.26	Lessee Obligations: Express and Implied - Express Obligations (a) Royalty Payments; (b) Division Orders (c) Lessor's Remedies for Failure to Pay Royalties
315-347	2.28	Implied Covenants - The Implied Duty to Market
347-361 HECI Exploration Co. v. Neel, 982 S.W.2d 881 (Tex. 1998)	3.2	The Duty to Protect the Lease
397-427; Texas and Oklahoma Mineral & Royalty Deeds, Forms Manual pp. 210-219	3.5	Titles And Conveyances: Interests In Oil And Gas - Common Types of Interests - Mineral Fees and Royalty Interests
0-0	3.7	MID-TERM REVIEW
0-0	3.9	MID-TERM EXAMINATION—30% CLASS GRADE

0-0	3.12 – 3.16	SPRING BREAK
472-484	3.19	The Executive Right
1307-1314	3.21	“School Land”: The Texas Relinquishment Act
484-511	3.23	Conveyancing Issues – The Meaning of “Minerals,” “Coal” and Other Named Substances ASSIGNMENT - BAR EXAM QUESTIONS
0-0	3.26	REVIEW OF BAR EXAM QUESTIONS
0-0	3.28	TESS LECTURE*
0-0	3.30	Good Friday – No Class
511-521 526-539	4.2	Defining Boundaries: “Catch-all” and “Mother Hubbard” Clauses Fractional Interests: The <i>Duhig</i> Rule
647-696	4.4	Conservation Law and Practice - Spacing and Density Regulations; Exception Locations; Regulating Production Operations, Production and Marketing
696-746	4.6	Small Tracts and Compulsory Pooling ASSIGNMENT - BAR EXAM QUESTIONS
0-0	4.9	REVIEW OF BAR EXAM QUESTIONS
746-796	4.11	Unitization
Ext. Materials	4.13	Environmental Issues - Common Law & Statute
Ext. Materials	4.16	Economic Approach
Ext. Materials	4.18	Plugging and Abandonment - “State requirements”
0-0	4.20	FINAL REVIEW
0-0	4.23	FINAL REVIEW
0-0	4.25	FINAL REVIEW