



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

OIL & GAS LAW

LAW 721/SEC. 1

FALL 2019

PROFESSOR EMEKA DURUIGBO

Course Schedule: Mon., Wed., at 9.00 am to 10.15 am

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THE PROFESSOR

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LOCATION: Room-221D

OFFICE HOURS: Monday, Wednesday and Friday
10:30 am to 1:00 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).

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, 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* (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, tangentially, 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 **usually features at least one Oil and Gas Law** question in every February and July administration of the test.

For most of the semester, we plan to review a past Texas Bar question in each class session.

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 (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 2019 (SEVENTY DAYS OF CLASSES)

Orientation	Monday-Friday	August 12-16, 2019
First Day of Class	Monday	August 19, 2019
Last Day to ADD/DROP	Wednesday	August 21, 2019
Labor Day (NO CLASSES)	Monday	September 2, 2019
<i>Purge of all unpaid course selections</i>	Wednesday	September 18, 2019
Mid Term Examinations	Mon – Fri	October 14-18, 2019
Last Day to Drop a Class	Friday	November 8, 2019
Last Day of Classes	Tuesday	November 26, 2019
First Year Professors' Grades due	Tuesday	November 26, 2019
Reading Period (NO CLASS)	Wednesday	November 27, 2019
Thanksgiving Holiday	Thurs – Fri	November 28-29, 2019
Reading Period (NO CLASS)	Sat-Sun	Nov 30-Dec 1, 2019
Final Examinations	Mon –Fri	Dec. 2-Dec. 13, 2019
Commencement Exercises	Saturday	December 14, 2019

SPRING SEMESTER 2020 (SEVENTY DAYS OF CLASSES)

School Opens	Thursday	January 2, 2020
First Day of Class	Monday	January 13, 2020
Last Day to ADD/DROP	Wednesday	January 15, 2020
M L K Holiday (No Classes)	Monday	January 20, 2020
<i>Purge of all unpaid course selections</i>	Friday	February 7, 2020
Mid Term Examinations	Mon – Fri	March 9– 13, 2020
Spring Break	Mon – Fri	March 16 – 20, 2020
Spring Break (University Closed)	Wed -Fri	March 18- 20, 2020
Last Day to Drop a Class	Thursday	April 9, 2020
Good Friday (No Classes)	Friday	April 10, 2020
Last Day of Classes	Tuesday	April 28, 2020
First Year Professors' Grades due	Tuesday	April 28, 2020
Reading Period (No Classes)	Wed – Thur	April 29 – 30 2020
Simulated Bar Exam	Friday	May 1, 2020
Reading Period (No Classes)	Sat – Sun	May 2 –3 2020
Final Examinations	Mon- Fri	May 4 – May 15, 2020
Hooding Ceremony	Friday	May 15, 2020
Commencement	Saturday	May 16, 2020

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

Updated August 6, 2019

POLICIES & PROCEDURES

There will be a midterm and a final examination. Both the midterm and final examination will be closed book, timed, in-class 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	8.19	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)	8.21	Basic Petroleum Geology - Conventional Oil and Gas Reservoirs Unconventional Sources of Oil and Gas; Types of Oil and Gas
56-67; 92-100; 690-696	8.26	Basic Legal Doctrines - Ownership Theories; History and the Emergence of the Rule of Capture; Limitations on the Rule of Capture
100-111; 112-116	8.28	Ownership After Extraction; Ownership and Loss of Ownership - Patterns of Oil and Gas Ownership ASSIGNMENT: PROBLEM ON P. 118
0-0	9.2	LABOR DAY – NO CLASS
116-163 Villareal v. Grant Geophysical, Inc. 136 S.W.3d	9.4	Trespass, Related Actions and Technology REVIEW PROBLEM ON P. 118
163-186	9.9	Loss of Ownership through Non-Use: Adverse Possession Loss of Ownership through Non-Use: Abandonment

		ASSIGNMENT - BAR EXAM QUESTIONS (AP)
187-194; 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.	9.11	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.) REVIEW OF BAR EXAM QUESTIONS (AP)
194-226; AAPL Lease clause 1; Barnett Shale Lease clause 1; 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	9.16	Granting Clause - Lessee’s Express and Implied Rights ASSIGNMENT: PROBLEM ON P. 215 REVIEW PROBLEM ON P. 215 Express Limitations on Lessee’s Rights; Oil and Gas Taxation
226-251 Barnett Shale Lease clause 7	9.18	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 Extending the Lease by Commencing Drilling Operations ASSIGNMENT - BAR EXAM QUESTIONS
251-272	9.23	The Secondary Term: Extending and Maintaining the Lease by Production

		REVIEW OF BAR EXAM QUESTIONS
273-305	9.25	Common Law Constructive Production; Savings Clauses as Substitutes for Production
305-328; AAPL Lease clause 4	9.30	Pooling Clause – Express and Implied Obligations; Common Lessor-protective Limitations on the Pooling Clause
328-348; 433-440; 440-446	10.2	Lessee Obligations: Express and Implied - Express Obligations <i>(a)</i> Royalty Payments; <i>b)</i> Division Orders <i>(c)</i> Lessor’s Remedies for Failure to Pay Royalties
348-412 HECI Exploration Co. v. Neel, 982 S.W.2d 881 (Tex. 1998)	10.7	Implied Covenants - The Implied Duty to Market The Duty to Protect the Lease: Implied Covenant Against Drainage
0-0	10.9	MIDTERM REVIEW
0-0	10.14	MIDTERM EXAMINATION
451-485; Texas and Oklahoma Mineral & Royalty Deeds, Forms Manual pp. 165-169	10.16	Titles And Conveyances: Interests In Oil And Gas - Common Types of Interests - Mineral Fees and Royalty Interests
485-519	10.21	Concurrent Ownership – Co-tenancy Life Estates and Remainders
530-546;	10.23	The Executive Right
1478-1485	10.28	“School Land”: The Texas Relinquishment Act
546-574	10.30	Conveyancing Issues – The Meaning of “Minerals,” “Coal”

		and Other Named Substances ASSIGNMENT - BAR EXAM QUESTIONS
575-591 591-605	11.4	Defining Boundaries: “Catch-all” and “Mother Hubbard” Clauses Fractional Interests: The <i>Duhig</i> Rule REVIEW OF BAR EXAM QUESTIONS
642-653 696-736	11.6	Non-Apportionment Doctrine Conservation Law and Practice - Spacing and Density Regulations; Exception Locations
741- 806	11.11	Regulating Production Operations, Production and Marketing Small Tracts and Compulsory Pooling
806-886	11.13	Unitization Regulatory Challenges to Oil and Gas Development
Ext. Materials	11.18	Environmental Issues - Common Law & Statute Economic Approach
736-741 Ext. Materials	11.20	Plugging and Abandonment - “State requirements”
0-0	11.25	FINAL EXAM REVIEW