

Thompson & Knight Successfully Defends BP in Landmark Texas Oil and Gas Lease Cases

A **Thompson & Knight** trial team earned a unanimous verdict for BP America Production Company in a retrial of a 12-year-old lease termination dispute brought by Laddex, Ltd., an Amarillo-based oil company. Absent further appeals, this verdict could be the final chapter in over a decade of contentious lease termination litigation, according to a release from the law firm.

The release tells the history of the litigation:

In 2013, BP took two lease termination disputes to trial within one month of each other: *Laddex v. BP America* and *Red Deer Resources v. BP America*. In each case, the plaintiffs sought termination of large BP leases in the Texas Panhandle. Both cases involved the hot Texas litigation topic of “production in paying quantities,” a doctrine that allows a typical oil and gas lease to continue after its primary term only if the well or wells on that lease produce enough oil and gas to turn a profit.

Laddex was originally tried in June 2013. In that trial, the jury found that the lease failed to turn a profit from August 2005 to October 2006 and further found that a reasonable operator would not continue to operate the Mahler D-2 well for the purpose of making a profit. The effect of these answers was the termination of BP’s lease.

Red Deer went to trial one month later. In that case, the jury found that the well had produced in paying quantities at all relevant times, but that it was not capable of producing in

paying quantities at the time it was shut-in on June 12, 2012.

Both cases eventually found their way to the Texas Supreme Court. In *Red Deer*, the court determined in its 2017 opinion that the only material question asked of the jury was whether the lease produced in paying quantities—and BP prevailed on that question. The result was a reversal and judgment rendered in favor of BP. In *Laddex*, also in 2017, the Texas Supreme Court ruled that the jury charge in the 2013 trial erroneously instructed the jury to limit its analysis only to a specific 15-month period and held that the length of the time period to be considered for determining profitability was for the jury to decide. The court therefore remanded the case for a new trial.

The focus of *Laddex* is whether the Mahler D-2 well produced enough oil and gas to maintain BP's almost 50-year-old lease. In order for the 1971 lease to remain valid, it needed to produce oil and gas in profitable quantities. *Laddex*'s suit claimed that the Mahler D-2 failed to turn a profit for over a year starting in the summer of 2005, and therefore the lease terminated on its own terms. It was undisputed that the well experienced a significant slowdown for about 15 months, but BP maintained that the lease was still profitable during that time. The well recovered to more normal levels of production in November 2006 and continues to produce near those levels to this day.

BP hired Thompson & Knight for the retrial, which began on April 15, 2019, and concluded mid-day on April 23. The jury ruled unanimously for BP.

The Thompson & Knight retrial team in *Laddex v. BP* was led by Rob Vartabedian, with support from Alix Allison, Rich Phillips, Conrad Hester, and Connor Bourland. Thompson & Knight's Rob Vartabedian and Conrad Hester assisted with all aspects of *Red Deer*, from trial to the Texas Supreme Court. M. Coy Connelly, BP America managing counsel, supervised the

successful litigation efforts in both the Laddex and Red Deer suits.