

‘Express Written Consent’ Means Express Written Consent—No More, No Less

The Supreme Court of Texas delivered a reminder that when drafting contracts, you should say what you mean and mean what you say, and reliance on oral representations directly contrary to the terms of a written agreement between sophisticated parties is not justifiable, **reports** Carrington Coleman Sloman & Blumenthal’s Sua Sponte blog.

Derrick Ward explains that the case considered a farmout contract between Barrow-Shaver Resources Company and Carrizo Oil & Gas for Barrow-Shaver to build a well on a lease held by Carrizo in exchange for an interest in the mineral rights. When Barrow-Shaver raised concerns about the consent-to-assign provision and sought to add language that would prohibit Carrizo from withholding consent unreasonably, Carrizo’s representative allegedly offered assurances that Carrizo would work cooperatively if the assignment became an issue.

When it became an issue, litigation resulted. The court ultimately concluded the consent-to-assign provision “unambiguously allowed Carrizo to refuse its consent for any reason,” Carrizo’s refusal to consent to the assignment could not constitute a breach of contract as a matter of law.

Read the article.