Pennsylvania, Texas Courts Disagree on Whether Rule of Capture Applies to Fracturing

A recent Superior Court of Pennsylvania ruling in a case concerning hydraulic fracturing runs counter to a ruling in a similar case by the Texas Supreme Court, reports John B. McFarland in Graves, Dougherty, Hearon & Moody's **Oil and Gas Lawyer Blog**.

The Pennsylvania court held that "hydraulic fracturing may constitute an actionable trespass where subsurface fractures, fracturing fluid and proppant cross boundary lines and extend into the subsurface estate of an adjoining property for which the operator does not have a mineral lease, resulting in the extraction of natural gas from beneath the adjoining landowner's property."

In doing so, McFarland explains, the court rejected the reasoning of the Texas Supreme Court when that court held that the rule of capture prevented any such cause of action.

Read the article.