



Jackson Walker LLP

## To Equity or Not? The Role of Equitable Defenses in Deed Construction Cases

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## What Equitable Defenses?



- Estoppel
  - Estoppel By Deed
  - Quasi-Estoppel
  - Equitable Estoppel
- Ratification
- Waiver
- Laches
- Presumption of Grant
  - Aka Presumed Lost Deed
  - Aka Common Law Adverse Possession
  - Aka Title by Circumstantial Evidence

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## Why Am I Talking About it?



- Title Disputes Involve Equity, Too.
  - Fixed v. Floating
  - Mineral v. Royalty
  - Reservation v. Exception
  - Easement v. Fee Conveyance
- What do all of these cases have in common?
- The party with the “stronger” argument argues that equitable defenses do not matter in unambiguous deed disputes—or at a minimum—only apply to estop past damages.

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## What I Am Not Talking About.



- Evidence to Resolve Ambiguity
- Surrounding Circumstances

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- *Sun Oil* (estoppel)
- *Yzaguirre* (laches)
- *Strickhausen* (ratification)
- *Van Dyke* (presumed grant)

### *Sun Oil Co. (Del.) v. Madeley*, 626 S.W.2d 726 (Tex. 1981)

- 1932 Oil and Gas Lease provided:
  - Lessee shall deliver to Lessors... one-half of the oil accruing to the seven-eighths working interest from that produced and saved from said land, same to be delivered [\*\*7] in the same manner as provided for the delivery of said royalty oil; subject, however, to the deductions and charges hereinafter provided.
- For forty years, Sun Oil delivered one of the working interest proceeds on oil and gas.
- Sun Oil then revoked the division orders and argued the lease did not require a payment on one-half the working interest proceeds for gas.
- Both parties agreed lease was unambiguous.
- Lessors argued estoppel, waiver, and ratification.

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