

APACHE V. CASTEX AND THE WILLFUL MISCONDUCT STANDARD

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Overview

- Brief History of the JOA
- The Exculpatory Clause(s)
- Key Cases Interpreting the Exculpatory Clause
- The 1989 Model Form JOA
- REEDER v. WOOD COUNTY
- The 2015 Model Form
- APACHE v. CASTEX

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PRE-1956

- Prior to 1956, E&P companies developed individual custom forms to manage joint projects
 - Inefficient
 - Expensive
 - Inconsistent

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KRAFTBILT 610 AGREEMENT

- Early 1950's – In hopes of bringing uniformity and predictability to the industry, a group of landmen from Tulsa and OKC called a meeting of industry reps to discuss development of a model form OA
- Committee of seven works on the form for 4 years, beginning with exemplars of various company's custom OA
- Form presented to and endorsed by AAPL at 1956 annual meeting in Denver
- Originally named Kraftbilt 610 Agreement, later renamed AAPL Form 610
- John R. Reeves & J. Matthew Thompson, *The Development of the Model form Operating Agreement: An Interpretive Accounting*, 54 Oklahoma Law review 2 (2001).

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AAPL FORM 610

- Designate Rights and Responsibilities Among Operator and Non-Ops
- Mechanism for Resolving Operational Disagreements Among JOA Parties
- Allocate Costs and Benefits According to Respective Parties' Interests

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1956 Model Form OA Exculpatory Clause

- _____ shall be the **Operator of the Unit Area**, and shall conduct and direct and have full control of all **operations on the Unit Area** as permitted and required by, and within the limits of, this agreement. It shall conduct **all such operations** in a good and workmanlike manner, but it shall have **no liability as Operator** to the other parties for losses sustained, or liabilities incurred, **except such as may result from gross negligence or from breach of the provisions of this agreement.**

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First appeared as part of the conference materials for the
48th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session
"Apache v. Castex and the Willful Misconduct Standard in JOA(s)"