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**Annual Case Law Update  
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**Annual Case Law Update, April 2023**  
**Texas Law of Oil and Gas**  
**Owen L. Anderson, University of Texas School of Law**

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PART 1 COMMON LAW  
CHAPTER 1 OWNERSHIP OF OIL AND GAS

1.1 THE RULE OF CAPTURE

- A. The Origin of the Rule of Capture
- B. Common Law Restrictions on Production and the Correlative Rights Doctrine
  - 1. Improper Methods of Production
  - 2. The Correlative Rights Doctrine
- C. Limitations Imposed by Statutes and Administrative Regulations
- D. Contractual Modifications: Pooling and Unitization
  - 1. Pooling
  - 2. Unitization
- E. The Current Status of the Rule of Capture

1.2 THE OWNERSHIP-IN-PLACE DOCTRINE

- A. Rationale for the Doctrine
- B. Legal Significance

1.3 OWNERSHIP OF PRODUCTION

- A. Legal Status of Production
- B. Legal Consequences of Classification as Personality
- C. Rights in Natural Gas Injected into Underground Reservoirs

CHAPTER 2 TYPES OF INTERESTS IN OIL AND GAS

2.1 THE MINERAL ESTATE AND THE SURFACE ESTATE

- A. Legal Effect of a Severance
  - 1. The Mineral Estate
    - a. Adverse Possession.
  
    - b. Attributes of the Mineral Estate.
  - 2. The Surface Estate
- B. Rights of Surface and Subsurface Use
  - 1. The Dominant/Servient Estate Theory
  - 2. Restrictions on the Mineral Owner's Rights of Surface and Subsurface Use
    - a. Contractual and Deed Restrictions.
    - b. Judicial Restrictions: Reasonable Use, Negligence and the Accommodation Doctrine.
    - c. Restrictions Imposed by Statutes, Regulations, and Ordinances.
  - 3. Rights to Authorize Underground Gas Storage

## 2.2 THE OIL AND GAS LEASEHOLD

### 2.3 DIVIDED OWNERSHIP OF OIL AND GAS

- A. Ownership in Common
  - 1. Development Rights
  - 2. Leasing Co-owned Lands
  - 3. Accounting for Oil and Gas Production
  - 4. Partition
    - a. Voluntary Partition.
    - b. Judicial Partition.
    - c. Partition by a Lessor.
- B. Successive Ownership
  - 1. Life Estates and Remainders

*Parker v. Jordan*, 659 S.W.3d 680 (Tex. 2022)

Held: The SCOT affirmed the court of appeals (see April 2022 Smith CLE Update) applying the rule in *Clark v. Gauntt*, 161 S.W. 270 (Tex. Comm'n. Op. 1942, adopted), in holding that a 1998 gift deed of "all of [his] right, title and interest in and to" certain land to his daughters transferred only the donor's present fractional interest in the property, not the donor's separate future expectancy, because the gift deed failed to expressly state an intent to transfer the expectancy and because the present life tenant had complete power to dispose of the property in fee simple. Thus, the donor had only an expectancy, not a vested remainder. A grantor may convey an expectancy only through a clearly manifested intent to do so. This rule protects grantors from inadvertently conveying expectancies or future interests they may not know they hold and never intended to convey.

- a. Right to Lease.
        - b. Division and Payment of Lease Benefits.
        - c. The Open-Mine Doctrine.
      - 2. Other Types of Successive Ownership
        - a. The Surface Lease.
        - b. The Defeasible Fee.
  - C. Relinquishment Act Land
    - 1. The Rights and Obligations of the Owner of the Soil
      - a. The Oil and Gas in Place.
      - b. The Landowner's Agency.
    - 2. Leasing Relinquishment Act Land
    - 3. Allocation of Benefits from Leases
  - D. Equitable Ownership and Management Power: Trusts and Decedents' Estates
    - 1. The Trust
    - 2. Decedents' Estates
      - a. The Dependent Administration.
      - b. The Independent Executor.
    - 3. Transfer on Death Deeds
- ## 2.4 ROYALTY AND SIMILAR INTERESTS
- A. In General

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