

## D. Davin McGinnis

Davin joined the firm in 2000 and has practiced exclusively in the firm's oil, gas and energy practice since 2003. His practice is primarily split between regulatory oil and gas work (before the Railroad Commission of Texas, the General Land Office and the Texas Comptroller of Public Accounts) and oil and gas litigation of any and all types of disputes in the oil, gas and energy arena (except personal injury claims). Davin has litigated oil and gas disputes in South Texas, West Texas, East Texas, Central Texas and the Panhandle. In addition to his advocacy practice, Davin advises the firm's oil and gas clients on a wide range of issues, including wellbore ownership, horizontal drilling in urban areas, lease development obligations (including continuous development obligations), lease pooling authority, royalty calculation and payment, and compliance with Railroad Commission rules and regulations.

## Recognitions & Awards

Board Certified, Oil, Gas and Mineral Law, Texas Board of Legal Specialization, since 2006

Texas Rising Star, a Thomson Reuters business, Oil, Gas and Energy Law, 2009-2015

Member, Board of Advisors for the Texas Journal of Oil, Gas and Energy Law, 2015

Chairman, Oil, Gas and Mineral Law Section of the Austin Bar Association, 2009-2010

Vice-Chairman, Oil, Gas and Mineral Law Section of the Austin Bar Association, 2008-2009

Advisory Board, Institute for Energy Law, since 2009

Planning Committee, Ernest P. Smith Institute's Oil, Gas and Mineral Law Conference, 2008

## Representative Matters



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## RELATED PRACTICE AREAS:

- Oil & Gas Business Advice
- Oil & Gas Litigation
- Oil & Gas Natural Resources and Energy Litigation
- Railroad Commission Regulatory

Eagle Ford Shale: Advised various public and private oil and gas operators on various regulatory, land and legal issues in the Eagle Ford Shale, including advice on drilling permits, pooling authority, retained acreage authority, and royalty calculation and valuation.

Farmout Dispute: Obtained summary judgment determination for East Texas operator that 34-year-old farmout agreement covering 10,000-plus acres was unenforceable under the Statute of Frauds (for lack of a legally-sufficient property description) and Rule Against Perpetuities. The matter was subsequently settled on terms favorable to client.

Merger Dispute. Represented multi-national oil and gas exploration and production company in dispute arising out of company acquisition. Claims were in excess of \$50 million and concerned a disputed AMI and the Railroad Commission's definition of a "field." The matter was set for arbitration, but settled on terms favorable to client.

Boundary Dispute: Successfully defended riverbed mineral lessee against riparian mineral owners' claims in excess of \$40,000,000 in dispute involving the accuracy of a gradient boundary survey, including claims for trespass, conspiracy and fraud.

Merger Dispute: Represented partner in dispute with surviving public oil and gas company resulting in settlement of competing claims regarding rights, obligations and responsibilities arising under merger agreement.

Adverse Possession/Trespass Dispute: Represented client who drilled on the wrong tract. Obtained favorable initial ruling on adverse possession claim. Record title owner subsequently conceded ownership.

Production in Paying Quantities Dispute: Successfully defended lease termination claim alleging failure to produce in paying quantities.

Continuous Development Dispute: Successfully defended claim of partial lease termination based upon alleged failure to comply with lease's continuous development provision.

Gas Transportation Dispute: Defended natural gas power plant in arbitration with pipeline company involving the delivery rate under gas transportation agreement.

Implied Lease Covenant Dispute: Successfully defended major independent oil and gas company in dispute with lessor involving 185 leases in the Austin Chalk Field. Claims asserted included failure to develop, failure to protect against drainage, bad faith pooling, and breach of the implied covenant to market.

State Lease Termination Claim: Obtained retraction of GLO determination that state mineral lease terminated due to non-production.

Lease Royalty Advice: Lease-by-lease review, analysis and advice on compliance with royalty provisions under client's 50+ non-standard oil and gas leases in Texas.

Force Pooling Applications: Successfully defended various major independent oil and gas companies against force pooling applications brought by offsetting landowners and operators.

(Horizontal) Field Rule Amendments: Obtained field rule amendments (various fields) to facilitate horizontal drilling including rules to allow for (a) measurement of lease-line and between-well spacing from "take points" (rather than their penetration points), and (b) off-lease surface locations.

## **Bar Admissions & Activities**

Admitted to the State Bar of Texas, the U.S. District Courts for the Western District of Texas.

## **Education**

University of Texas, B.A., honors, 1997

Phi Beta Kappa

University of Texas School of Law, J.D. with honors, 2000

## **Articles & Presentations**

Author, "Developing Issues Related to Saltwater Disposal in Texas: A Discussion of Current Legal and Regulatory Developments," Earnest E. Smith Seminar materials, 2013.

Square Pegs, Round Holes: The Application and Evolution of



Traditional Legal and Regulatory Concepts for Horizontal Wells, 7  
TEX. J. OIL GAS & ENERGY L. 178, 2012

Lesley v. Veterans Land Board: Revisiting the Scope of the Duty  
Owed by Executive Mineral Interest Owners to Non-Executive  
Mineral Interest Owners, 5 TEX. J. OIL GAS & ENERGY L. 131,  
2009

Horizontal Drilling in the Haynesville: Land and Regulatory Issues,  
East Texas Landman's Association, November 2009

Impact of Railroad Commission Rules on Leases, (Wellbore)  
Assignments and Related Issues, ADVANCED OIL, GAS, AND  
MINERAL LAW COURSE SPONSORED BY THE STATE BAR OF  
TEXAS (2008)

All for One and One for All: A Primer on Pooling in Texas, 31st  
ERNEST E. SMITH OIL, GAS & MINERAL LAW INSTITUTE  
(2005)

Royalty and Royalty Disputes from Percentages and Covenants to  
Marketing Issues, UNIVERSITY OF HOUSTON, 2005, 2006, 2007,  
2008 and 2009