IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-20125

Glassell Non-Operated Interests, Limited; ACG3 Mineral Interests, Limited; Yates Energy Corporation,
Plaintiffs – Appellees

v.

EnerQuest Oil & Gas, L.L.C.,
Defendant – Appellant

Appeal from the United States District Court
for the Southern District of Texas
Case No. 4:16-CV-1573

REPLY BRIEF OF APPELLANT

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I. The Development Agreement means what it says: the Pre-Owned Interests are not "Acquired Interests" subject to the sharing requirement.

The Development Agreement says that the parties must offer to share "Acquired Interests." It lists requirements for a particular interest to qualify as an "Acquired Interest." One of those requirements is that the interest must be covered by the AMI. Any interest owned by a party before the Effective Date is not covered by the AMI. Each of the Pre-Owned Interests was owned by a party before the Effective Date. Therefore, the Pre-Owned Interests fall outside the definition of "Acquired Interest," and EnerQuest did not have to offer to share them.

Section 1.4 of the Amendment and Section 1.5 of the Ratification confirm what Section 2.3 of the Letter Agreement says: the Pre-Owned Interests "shall not be considered part of or subject to the AMI." This Court "must enforce the contract as made by the parties, and cannot make a new contract for them, nor change that which they have made under the guise of construction." *Fiess v. State Farm Lloyds*, 202 S.W.3d 744, 753 (Tex. 2006). And this Court must "examine and consider *the entire writing* in an effort to harmonize and give effect to *all the provisions* of the contract so that none will be rendered meaningless." *Coker v. Coker*, 650 S.W.2d 391, 393 (Tex. 1983) (emphases in original). Considering every relevant provision, the only reasonable construction of the Development Agreement is that the Pre-Owned Interests are

not "Acquired Interests" and are therefore not subject to the requirement to offer to share.

A. Appellees' construction impermissibly deletes and adds contract language.

Appellees wrongly claim that EnerQuest "argue[s] that the property falls outside the Area of Mutual Interest by exemption." Response at 22. EnerQuest's construction is not based on an "exemption." It is based on the definition of "Acquired Interest."

Appellees want the Development Agreement to say that all "new acquisitions by a party to the agreement [are] designated as 'Acquired Interests.'" Response at 1. Appellees want it to say that "Section 2.3 excludes [*from the sharing requirement*] interests that a party [owned prior to the Effective Date]," and that "Section 2.1 includes [*in the sharing requirement*] interests that a party [acquired after the Effective Date]" from any source. Response at 25. But that is simply not what the contract says.

Sections 2.5 and 2.6 say that a party must offer to share "an Acquired Interest within the AMI." ROA.197. Section 2.1 says "[t]he AMI ***shall cover and apply to***" certain described interests. ROA.196. That section then says, "Any ***such interest*** . . . shall be referred to herein as an "Acquired Interest." (first emphasis added, second in original). *Id.* An "Acquired Interest" is generally any interest that meets three requirements: (1) it is covered by the AMI; (2) it is acquired by a party; and (3) it is acquired after August 1, 2010. *Id.*

Section 2.3 provides:

> 2.3 All interests, leases or agreements owned by a Party prior to the Effective Date (including non-consent interest required under existing joint operating agreements with respect thereto), shall not be considered part of or subject to the AMI. ROA.197.

This exclusion is of interests, not of parties. Appellees' position is that whether interests are excluded from the AMI—and therefore do not have to be offered—depends on who owns them. But Section 2.3 contains no such limitation. If a leasehold or other interest is not subject to the AMI, then it is not subject to the AMI, no matter who owns it or who acquires it. Unlike Section 2.13, Section 2.3 does not merely eliminate a party's obligation to share an interest that is otherwise within the AMI. Section 2.3 excludes interests from the AMI.

Appellees' construction would require the following revision of Section 2.3:

> 2.3 All interests, leases or agreements owned by a Party prior to the Effective Date (including non-consent interest required under existing joint operating agreements with respect thereto) shall not be considered part of or subject to the AMI, ***but only while owned by that party. Provided, however, that any such interest shall become subject to the AMI if the party owning it prior to the Effective Date conveys it to another party to this agreement after the Effective Date.***

That tortured exercise contravenes Texas law. It is a "fundamental principle that courts cannot rewrite the parties' contract or add to or subtract from its language." *Fischer v. CTMI, L.L.C.*, 479 S.W.3d 231, 242 (Tex. 2016); *see Tenneco Inc. v. Enter. Products Co.*, 925 S.W.2d 640, 646 (Tex. 1996) ("We have long held that courts will not rewrite agreements to insert provisions parties could have included or to imply

restraints for which they have not bargained."). EnerQuest's construction alone gives effect to each of the words actually used in the Development Agreement.[1]

EnerQuest seeks enforcement of the Development Agreement as written. That is consistent with this Court's interpretative task, which is to "enforce the contract as made by the parties." *Fiess*, 202 S.W.3d at 753. It is not this Court's task, as Appellees would have it, to "make a new contract for them, nor change that which they have made under the guise of construction." *Id.*

Because the Pre-Owned Interests are not "part of or subject to the AMI," they fall outside the definition of "Acquired Interest," and therefore are not subject to the sharing requirement.

B. The exclusion of Pre-Owned Interests from the AMI is consistent with the purpose of the Development Agreement.

Appellees also claim that excluding Pre-Owned Interests from the AMI is contrary to the purpose of the Development Agreement because it would create a bidding war for those interests if the original owner decided to sell. *See* Response at 29. Appellees go so far as to suggest that free-market competition would "artificially inflat[e] the value of these interests." *Id.* But that argument actually supports EnerQuest's position.

[1] Appellees also baldly assert that EnerQuest's interpretation would "lead to bizarre and unintended results." Response at 28. That is not the case, as EnerQuest's construction is the only reading that gives effect to all intended results. *See* Opening Brief at 27-30. But even so, Appellees misconstrue this Court's task, which "is to interpret the [a]greement's language, not to justify the bargain it memorializes." *Kachina Pipeline Co., Inc. v. Lillis*, 471 S.W.3d 445, 453 (Tex. 2015).

It is clear—and even Appellees concede—that the parties did not want to make interests they owned before the Effective Date subject to the AMI. The parties obviously wanted to keep all the rights of ownership of the Pre-Owned Interests, unencumbered by any obligations to share the interests under the Development Agreement. Those rights include the ability to sell interests at the highest price they can bring. As Appellees implicitly admit, subjecting a later sale of Pre-Owned Interests to the sharing requirements under the Development Agreement would suppress the price those interests could fetch, by eliminating competitive bidding among the most likely purchasers—those who already own interests in the area. Why would the parties go to the trouble of excluding Pre-Owned Interests from the sharing requirement only to limit the future marketability of those interests? The answer: they wouldn't. That is why the agreement excludes the interests from the AMI no matter who acquires them.

C. Any prior inconsistent interpretation by the Parties is not relevant to this Court's construction analysis.

Recognizing the weakness of their contract construction, Appellees pin all their hopes on a misstatement—quickly corrected—by EnerQuest's President to support their position. EnerQuest's President did initially state (incorrectly) that if EnerQuest were to purchase the Pre-Owned Interests it would offer them to the other parties to the Development Agreement. Appellees neglect to mention that he shortly thereafter

corrected that statement.[2] More importantly, though, a party's after-the-fact interpretation of an agreement cannot change the meaning of unambiguous contract language.

"A party's interpretation of an agreement is parol evidence and cannot be used to create ambiguity or show motive." *Kachina Pipeline Co.*, 471 S.W.3d at 453 (citations omitted). This Court "cannot consider [the email] to contradict the [contract's] unambiguous legal meaning." *Id.*; *see Sun Oil Co. (Delaware) v. Madeley*, 626 S.W.2d 726, 727, 732 (Tex. 1981) (holding that it was error to consider lessee's "conduct. . . for over forty years" that was inconsistent with the unambiguous language of the lease). In sum, EnerQuest's President's short-lived misinterpretation of EnerQuest's obligations under the Development Agreement is not relevant to and certainly does not supplant this Court's interpretation of the Development Agreement.

And, as shown below, Appellees' attempt to characterize this email and subsequent correction as "devious" (Response at 23) is simply an effort to muddy the waters. EnerQuest's president made a mistake. But that doesn't change the meaning of the contract's language.

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[2] EnerQuest's President later clarified as follows:

> I got a little ahead of myself on the AMI obligations under the September 9, 2011 letter agreement. I must have confused the September 9, 2011 letter agreement AMI obligations with the obligation under the 12/20/2011 EOG Farmout Agreement. As part of the transaction process EnerQuest's lawyer pointed out my incorrect assumption. Specifically, he directed my attention to Section 2.3 of the September 9, 2011 letter agreement which clearly excludes from the AMI interest owned by the parties prior to the Effective Date. My apologies for confusion. ROA.93, 289.

II. Texas law also means what it says: the Development Agreement fails the Statute of Frauds.

Texas law says a contract "must furnish within itself, or by reference to some other existing writing, the means or data by which [property] to be conveyed may be identified with reasonable certainty." *Long Trusts v. Griffin*, 222 S.W.3d 412, 416 (Tex. 2006). It does not say, as Appellees want it to, that a contract satisfies the Statute of Frauds by: (a) referring to a writing; (b) that contains a map; (c) that was based on unidentified mapping data; (d) that corresponds to the Texas State Plane Coordinate System; (e) from which unidentified data a surveyor can create a new, separate, and different map; (f) that, when "verified" with General Land Office records, (g) may furnish the means or data by which property may be identified. Appellees' multistep, Rube Goldberg theory of property description fails under bedrock Texas Statute of Frauds law.

Texas law says that before a court may look to extrinsic evidence, a contract must contain a "key or nucleus" description of the property, and even then extrinsic evidence can only help identify the property "from the data in the [writing]." *Wilson v. Fisher*, 188 S.W.2d 150, 152 (Tex. 1945). It does not say extrinsic evidence can save a deficient nucleus or furnish the data needed to provide that nucleus description.

Texas law also provides that extrinsic evidence must not "supply[] the location" of the property or "constitute the framework or skeleton of the agreement." Rather, these things "***must be contained within the writing***." *Id.* (emphasis added). Map-

ping data is not an exception to that principle. Appellees get it wrong when they argue that "the map is the data and the data is the map." Response at 41. The data is not the map. The map is the map. The data cannot supply the location of the AMI where the map does not. That Appellees' surveyor had to use shape files and other mapping data that, contrary to Appellees' numerous assertions[3] was not referenced on the map, proves that the description on the map itself was insufficient. That ends the inquiry.

Indeed, if Appellees were right, virtually any map, no matter how deficient, would satisfy the Statute of Frauds as long as one could unearth an adequate description from the data used to create the map. That approach is contrary to fundamental Texas law on the Statute of Frauds. *See, e.g., Matney v. Odem*, 210 S.W.2d 980, 984 (Tex. 1948) ("[T]he map must be referred in the contract and it is not sufficient to show that the parties consulted a map at the time of their [n]egotiations"). What is the point of requiring the writing to have sufficient description or to refer to a document with a specific description if parties are always be free to rummage through the data that was used to create the description to see if they can't do a better job, long after the fact?

[3] Appellees did not make this claim—that the map actually refers to the mapping data—below. Instead, they argued that "[t]his data was created and maintained as part of the two incorporated Seitel Agreements." ROA.186. It was only by using the unreferenced mapping data that Appellees' surveyor was "able to create her own map of the AMI (the "Foster Map") that contains more detail on its face than is shown on the face of the Seitel Map, but that is created from the same mapping data as the Seitel Map." ROA.525; *see* ROA.301 (Foster Map).

A. Appellees fail to show the Development Agreement contains, within itself or by reference to an existing writing, adequate means to identify the AMI by reasonable certainty.

The Development Agreement must furnish adequate means or data "within itself, or by reference to some other existing writing." *Long Trusts*, 222 S.W.3d at 416. It does not. The Development Agreement references the Seitel Agreement, an existing writing, which contains the Seitel Map. ROA.214. Appellees concede the Seitel Map does not provide the AMI boundary. Response at 35 (claiming "[t]he map contains ***most*** of the AMI's boundary," but not all of it).[4] That is the end of this Court's inquiry. The contract does not furnish adequate means of identification within itself (the Development Agreement) or by reference to an existing writing (the Seitel Agreement, which contains the Seitel Map).

Appellees want to stretch the standard many degrees further, to encompass (i) a new and different map created from (ii) mapping data allegedly use to create (but not referenced in) the (iii) Seitel Map, an exhibit to the (iv) Seitel Agreement referenced in the (v) Development Agreement. That overbroad conception of "reference" has no has no limiting principle. It also has no support under Texas law.

Moreover, despite Appellees' repeated claims to the contrary, the Seitel Map does not refer to any mapping data. It does not refer to the "Seitel Shape Files"—the

[4] Appellees purport to rely on "[a] more legible color copy" of the Seitel Map. ROA.299. That effort fails, too, as discussed further below. But regardless, Appellees concede that even the color copy does not provide a full boundary for the AMI. Response at 36 (claiming that the color copy contains the "southern boundary," but making no mention of the missing eastern and northeastern boundaries).

files that Appellees' surveyor relied on to create the new map. Thus, this un-referenced data cannot be used to supply a description that the map itself does not supply.

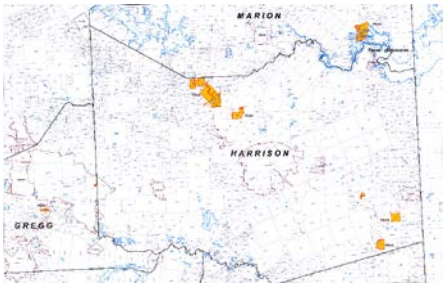
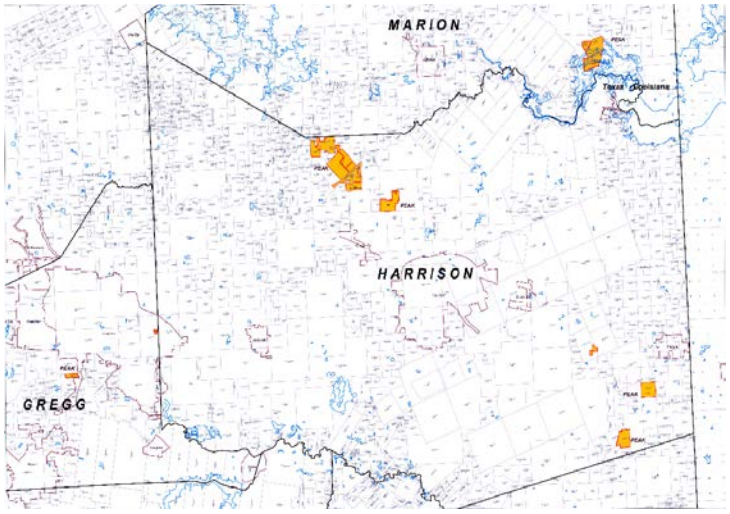
B. *Coe* does not save the Development Agreement, because the map created by Appellees' surveyor from extrinsic mapping data was new and different, rather than "identical in all but size."

Appellees cite *Coe v. Chesapeake Exploration* and claim that "[t]his Court has previously allowed district courts to evaluate ***more detailed*** maps." Response at 40. Appellees suggest that in *Coe* this Court affirmed "reliance on [a map] to establish a sufficient nucleus of description, even though it contained ***more detail and information than*** the map attached to the agreement." Response at 40.

That claim is misleading at best. Appellees misrepresent the facts and holding of *Coe*. The map used in *Coe* was not more detailed and it did not contain more information—it was "identical in all but size" to the version attached to the agreement. 695 F.3d 311, 319 n.22 (5th Cir. 2012). That is a material difference with the new and different map Appellees' surveyor created here.

In *Coe*, the map the agreement referenced "was a printout of a computer file . . . [that] had been generated by Chesapeake using GIS-enabled computerized mapping software." *Id.* at 317. When Chesapeake sought to void the contract under the Statute of Frauds, this Court held that Chesapeake's opponent could rely on a larger printout of the "identical" map. *Id.* at 319 n.22. This Court held that the en-

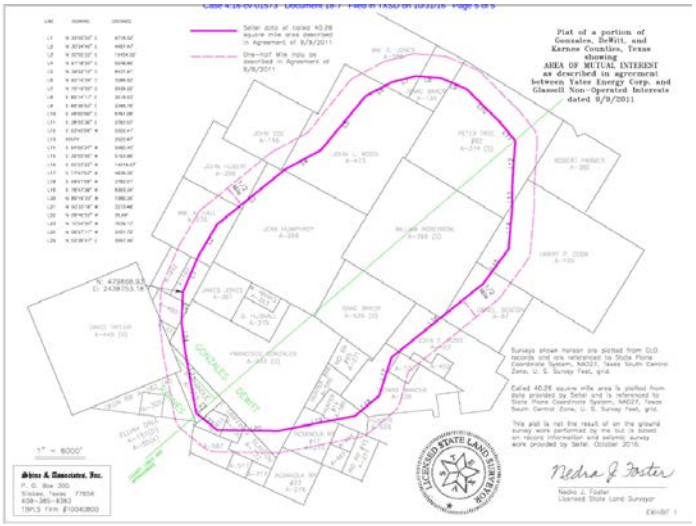
larged map provided an adequate nucleus of description.[5] Below is an illustration of the difference between the maps at issue in *Coe*:

Map in Agreement	Map Relied Upon[6]
	

Here, by contrast, Appellees' surveyor and the lower court consulted a new and different map—a map that ***did*** contain more detail and information and covered a larger area—to provide a definition of the AMI boundary. The material differences between the Seitel Map and the new map Appellees' surveyor created show why *Coe* does not control in this case:

[5] *Coe* was a "recital of ownership" case. *See id.* at 319 ("[A] recital of ownership eliminates the risk of the property being misidentified, so long as the owner is conveying all of the property that he owns in the area described by the agreement, it fulfills the demands of the statute of frauds."). This Court based its holding in part on the presence of a recital of ownership in the contract, and specifically described its holding as consistent among "the 'recital of ownership' cases." *Id.* The case at bar is further distinguishable in that it does not involve a "recital of ownership" issue.

[6] This map is available in the district court docket at Dkt. 50, Exhibit 18, *Richard C. Coe, et al. v. Chesapeake Exploration, LLC et al.*, Case No. 2:09-CV-290 (E.D. Tex).

Map in Agreement (Seitel Map)[7]	Map Relied Upon (Foster Map)[8]
	

The Foster Map is not merely an enlargement of the Seitel Map; rather, it is a completely new and different map. The two maps are not even the same shape.

That is precisely what Texas law forbids. A party cannot use a map to provide or supplement a property description unless the map is expressly referenced in the agreement. *See Matney*, 210 S.W.2d at 984 ("[T]he map must be referred to in the contract, and it is not sufficient to show that the parties consulted a map at the time of their [n]egotiations.").[9] The *Coe* opinion is consistent with the *Matney* opinion, be-

[7] ROA.214. The Seitel Map is reproduced here as it is oriented in the Seitel Agreement.
[8] ROA.301. The Foster Map is reproduced here as it is oriented in the Foster Affidavit.
[9] Although irrelevant under *Matney*, Appellees do not dispute that "[a]t no point were Seitel mapping data or shape files exchanged by the parties before the Development Agreement was entered." ROA.636.

cause the enlarged map in *Coe* was truly the same map as the one attached to the agreement. Here, the map Appellees' surveyor and the district court relied upon is completely different from the map referenced in the Development Agreement.

As the *Coe* opinion noted, under Texas law "[t]he description must be contained in the written agreement and written instruments to which it refers, as 'the knowledge and intent of the parties will not give validity to the contract, and neither will a plat made from extrinsic evidence.'" *Coe* at 316 (citing *Morrow v. Shotwell*, 477 S.W.2d 538, 540 (Tex. 1972)). This is exactly what Appellees seek to do here. Appellees want to use extrinsic mapping data to make a new map and give validity to a contract that does not contain an adequate property description. That they cannot do.

C. Appellees do not and cannot cure the district court's error in weighing the credibility of the two opposing experts.

Appellees criticize at length the opinions of EnerQuest's expert surveyor.[10] Response at 44-45. But Appellees wholly fail to respond to EnerQuest's straightforward legal argument that the district court erred in making a credibility determination between the competing surveyors. Opening Brief at 41-42. Nor could Appellees respond, because without a doubt "[c]redibility determinations are not part of the summary judgment analysis." *Quorum Health Res., L.L.C. v. Maverick County Hosp. Dist.*, 308 F.3d 451, 458 (5th Cir. 2002). Here, the district court erred in crediting Appellees'

[10] Among other things they criticize him for not considering the mapping data, which cannot be considered under Texas law, as shown above.

expert surveyor instead of EnerQuest's expert surveyor. If nothing else, this Court should reverse Judge Hughes' judgment for this independent reason and remand for further proceedings.

D. EnerQuest's mistaken—and quickly corrected—email statement is not the sort of "virtual fraud" sufficient to deny a Statute of Frauds defense.

Although Appellees claim—without any cite to proof in the record—the Parties performed under the Development Agreement for years (Response at 1, 11), in reality there have been only a few instances where parties to the Development Agreement have offered to share interests they acquired within the AMI. In particular, EnerQuest twice acquired small shares of interests Yates had acquired, paying a whopping $179.75 on one occasion and $47.05 on the second occasion. ROA.637. But even if there had been years of performance it wouldn't eliminate the Statute of Frauds problem. As EnerQuest pointed out in its opening brief, the Supreme Court has held that the partial performance exception is considered on a transactional basis, and many past transactions performed under a contract do not exempt future transactions from the Statute. *Long Trusts*, 222 S.W.3d at 417.

Appellees do not even cite, much less attempt to distinguish, the *Long Trust* holding. Instead, they pin their hopes on the one, mistaken email (referred above) in which EnerQuest's president, without reading the Development Agreement (which EnerQuest entered four and one-half years prior), stated incorrectly that EnerQuest would offer the Pre-Owned Interests if it acquired them. Yates—but curiously, not Glassell[11]—claims that, in reliance

[11] *See* ROA.591.

on that email he did not pursue his own acquisition of the Pre-Owned Interest. *See* ROA.543. But even taking Yates' declaration as true—which the trial court was **not** authorized to do as support for granting summary judgment—this testimony does not prove a virtual fraud for several reasons.

First and foremost, it is undisputed that Yates could not have bought any of the Pre-Owned Interests because EnerQuest had the exclusive right to buy them. ROA.638, 648, 651. Yates cannot overcome this fact. Appellees' only response is to question the timing of the exclusivity agreement, which EnerQuest entered three days after sending the mistaken email. But there is no evidence to suggest that EnerQuest even knew that Yates had been considering its own acquisition of the Pre-Owned Interests, much less that EnerQuest entered the exclusivity agreement to preclude a Yates acquisition.

And despite Appellees liberally sprinkling the words "secret" and "secretly" throughout their brief, there is no evidence that EnerQuest did anything duplicitous, secretive, or underhanded in any way. To the contrary, the evidence is that EnerQuest informed everyone that it was considering acquiring the Pre-Owned Interests, ROA.94, 290, informed all Parties that it had acquired the interests, ROA.93, 289, and corrected its previous misunderstanding that the interests would be subject to the AMI. Appellees are in no different position than they would have been had EnerQuest never sent the email. If this Court disagrees with EnerQuest's position and affirms the trial court, Appellees will have the opportunity to acquire their share of the interests. If it agrees with EnerQuest on either the contract interpretation or the Statute of Frauds, Appellees were never entitled to acquire the interests in the first place.

Further, not only can Appellees not show any fraud, virtual or otherwise, they cannot show any substantial injury. Both Glassell and Yates' declarations referred to "lost opportunity costs." But they don't specify what those costs are. Further, the operator, EOG, has suspended revenues attributable to the disputed interests that Appellees may be able to acquire. *See* ROA.697. So, if this Court affirms, Appellees will receive all the monies they would have received had they acquired the interest in 2016.

A mistaken email that caused no harm and that was quickly corrected does not establish the type of virtual fraud Texas courts require to apply the partial performance exception to the Statute of Frauds. *Cf. Zaragoza v. Jessen*, 511 S.W.3d 816, 823 (Tex. App.—El Paso 2016, no pet.) (enforcing contract for sale of house where plaintiff "made a $73,010 down payment," "paid off the . . . mortgage balance of $33,990.00," and "spent $9,717.41 on improvements and renovations to the house," all in reliance on "lie[s]" by breaching party). Moreover, Appellees must show that their failure to pursue acquiring the Pre-Owned Interests "could have been done with no other design than to fulfill the [Development Agreement]." *Exxon Corp. v. Breezevale Ltd.*, 82 S.W.3d 429, 439–40 (Tex. App.—Dallas 2002, pet. denied). But Appellees' inaction could be due to other reasons, such as the exclusivity agreement or Appellees' own lack of interest in pursuing the acquisition at that time.[12] Appellees' argument fails as a matter of law.

[12] By Yates's own admission, he had an engineer look into such an acquisition for almost a year (ROA.543) without Yates ever making an offer or even requesting an exclusivity agreement.

E. Even if Appellees' virtual fraud argument is not invalid as a matter of law, fact issues preclude summary judgment.

As shown, Appellees' virtual fraud argument fails as a matter of law. But even if it didn't, fact questions preclude summary judgment.

Appellees chide EnerQuest for suggesting that Yates's affidavit, ROA.542-44, when viewed alongside Olson's affidavit, ROA.635-40, creates disputed fact issues as to whether there is "no other reason" for Appellees failure to pursue acquiring the Pre-Owned Interests. But Appellees do not respond to the argument directly. Instead, they look to the very same evidence to craft a clever but inaccurate factual narrative to support their far-flung theory of fraud. *Id.* At the most, Appellees' evidence created a fact issue on their virtual fraud theory—a fact issue that Judge Hughes improperly resolved by summary judgment. And, of course, such fact issue would apply to Yates only, because Glassell did not even attempt to allege that it relied on Olson's email. *See* ROA.591.

For instance, a reasonable factfinder could conclude the exclusivity period in the letter of intent between EnerQuest and DKE and Pati-Dubose prevented them from "negotiat[ing] with Mr. Yates even if he wanted to." *See* ROA.639. And a reasonable fact finder could conclude that Yates never intended to buy the Pre-Owned Interests—especially given his failure to do so for almost a year prior, after having an engineer "perform a valuation of those interests in 2015." ROA.543. Because a reasonable factfinder could so find, disputed fact issues preclude summary judgment on

the partial performance exception. As with the expert credibility determination, should this Court not reject Appellees' virtual fraud argument as a matter of law, it should remand for resolution of these fact issues.

CONCLUSION AND PRAYER

For the reasons discussed herein and in its opening brief, EnerQuest respectfully prays that this Court reverse the grant of summary judgment in favor of Glassell and Yates and render judgment for EnerQuest.

Dated: August 3, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 3, 2018, the following counsel are being served with a copy of this document via the Court's CM/ECF system, in accordance with Fed. R. App. P. 25 and 5th Cir. R. 25:

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) because it contains 4,497 words, excluding the parts of the brief exempted by Fed. R. Civ. P. 32(a)(7)(B)(iii).

This brief complies with the typeface requirements of Fed. R. Civ. P. 32(a)(5) and the type-style requirements of Fed. R. Civ. P. 32(a)(6) because this brief has been prepared in proportionally spaced typeface using Microsoft Word 2010 in 14-point Garamond font, and with 12-point font in the footnotes.

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