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## OIL AND GAS ALERT: Louisiana Federal District Court's Decision in *Thomas v. Pride Oil & Gas Properties, Inc.*<sup>1</sup> Comforts Haynesville Shale Lessees

### OIL & GAS ALERT

In February 2007, William R. Thomas granted Pride Oil and Gas Properties, Inc. an oil and gas lease covering 17 acres in Red River Parish, Louisiana. Thomas subsequently filed suit seeking to rescind the lease, asserting three alternative bases for rescission—(1) that he was defrauded by Pride; (2) that the price paid for the lease was grossly out of proportion with its fair market value; and (3) that Thomas was mistaken concerning “a substantial quality” of the mineral rights that the lease conveyed, absent which mistake he would not have agreed to the lease. Pride moved to dismiss the suit for failure to state a valid claim.

Thomas alleged that Pride suppressed the truth and perpetrated fraud through silence or inaction. Under Louisiana law, in order “[t]o find fraud from silence or suppression of the truth, there must exist a duty to speak or disclose information.” The Louisiana Mineral Code provides that a “mineral lessee is not under a fiduciary obligation to his lessor.” Therefore, the court concluded that Pride did not owe Thomas a duty to disclose any information that Pride may have possessed regarding the possibility that substantial mineral deposits underlay Thomas’s property, and the court dismissed Thomas’s fraud claim.

A contract for sale of immovable property (which, under Louisiana law, includes an oil and gas lease) generally may be rescinded pursuant to the Louisiana legal doctrine of “lesion beyond moiety”<sup>2</sup> when “the price is less than one half of the fair market value of the immovable ... .” However, the Louisiana Mineral Code specifically provides that “[a] sale of a mineral right is not subject to rescission for lesion beyond moiety.” The specific Louisiana Mineral Code rule trumps the general “lesion beyond moiety” rule. Therefore, the court refused to rescind the lease on lesion-beyond-moiety grounds.

The court assumed the truth of Thomas’s allegation that he was unaware of the possibility that potentially valuable shale deposits existed under his land. Nevertheless, “[i]n light of the particularly speculative nature of mineral exploration and production,” the court held that an error as to the existence of mineral deposits does not constitute an error as to a “cause without which the obligation would not have been incurred” (which is the type of error that, under Louisiana law, would provide grounds for rescission of a contract). Consequently, the court dismissed Thomas’s claim that the lease should be rescinded because of his alleged lack of awareness of the nature of the valuable mineral deposits underlying his land.

The leased premises at issue in this case are located in the heart of the Haynesville Shale play. With the recent and sudden increase in activity in the Haynesville Shale have come claims, such as the one in this case, that landowners who entered into leases during the early phase of Haynesville Shale development did not receive fair prices. This case illustrates courts’ reluctance to entertain these arguments and undo the parties’ bargained-for agreements.

<sup>1</sup> 2009 WL 1309725 (W.D. La. May 7, 2009)

<sup>2</sup> Black’s Law dictionary defines (a) “lesion” as “the injury suffered by one who did not receive the equivalent value of what was bargained for” and (b) “moiety” as “a half of something (such as an estate).”

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