

## Brandon E. Durrett

Senior Attorney

### San Antonio

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### Areas Of Practice

Business Services  
Corporate Finance  
Mergers & Acquisitions  
Private Equity, Venture Capital &  
Mezzanine Finance  
Energy Lending Transactions

### Industries

Energy Industry Group  
Energy Corporate  
Oil & Gas

### Bar Admissions

Texas, 2009  
New Mexico, 2010

### Education

Texas Tech University School of  
Law, J.D., *cum laude*, 2009  
Brigham Young University, B.A.,  
*with Honors*, 2006

### Certifications

Board Certified in Oil, Gas and  
Mineral Law by the Texas Board of  
Legal Specialization, 2014

Brandon Durrett is a Board Certified oil and gas attorney. He practices in the San Antonio and Austin, Texas offices with the Corporate Finance Practice Group of the Business Services Department. Brandon maintains a diverse upstream industry practice focused on identifying and solving problems his clients encounter in the exploration, development, operation, production, sale, and leveraging of oil and gas properties.

Brandon has broad experience in all phases of acquisition and divestiture of oil and gas assets, including negotiation, drafting, and closing of purchase and sale agreements, associated financing transactions, and large-scale due diligence projects. He frequently negotiates and conducts upstream and midstream transactions involving leasing, pooling, farmouts, joint development, production allocation, seismic exploration, rights-of-way, surface use and damages, gas gathering and sales, and custom instruments to fit his client's needs. Brandon also regularly handles disputes arising under joint operating agreements, such as calculation of non-consent penalties, notice and election requirements, and exercise of preferential rights.

Brandon frequently represents and advises clients in regulatory compliance matters before the Railroad Commission of Texas and New Mexico Oil Conservation Division regarding drilling permits, spacing and density issues, pooling and allocation matters, special field rules, and enforcement actions. He also advises clients in operational and leasehold maintenance matters before the General Land Office of Texas, New Mexico State Land Office, and U.S. Bureau of Land Management.

Practicing in Texas and New Mexico, Brandon has extensive experience examining oil and gas title to fee, state, and federal lands, including complex producing leaseholds and large unitized acreages, on both a stand-up and abstract basis.

Brandon frequently collaborates with the firm's litigation practice group in land and energy-related disputes, such as lease termination disputes, deed and contract construction, adverse possession claims, and land use conflicts. He also works with the corporate, real estate, and regulatory groups in matters such as ranch and mineral acreage sales, ground and surface water rights disputes, and sales of pipeline and gathering systems.

Brandon E. Durrett (Cont.)

## Experience

### Transactions and Negotiations:

Negotiated and closed multi-seller \$90MM Purchase and Sale Agreement for publicly-traded oil company in sale of Delaware Basin producing leasehold assets in Texas and New Mexico, including transition agreement and separate seller's agreement

Negotiated, drafted, and closed \$40MM Purchase and Sale Agreement for publicly-traded oil company in purchase of Delaware Basin producing and proven undeveloped leasehold acreage in New Mexico

Negotiated, drafted, and closed Asset Acquisition and Development Agreement for independent oil company for sale of producing leasehold properties in Delaware Basin involving exchange and settlement of complex operating agreement rights, detailed development obligations, and a series of carried interest reservations and put options

Negotiated, drafted, and closed Purchase and Sale Agreement for operating position in 3,600-acre producing Permian oil field for mid-size Texas E&P company, including preparation of finance and conveyance instruments and due diligence on contract, title, and regulatory matters

Negotiated and drafted 45,000-acre Joint Development Agreement for major Texas E&P company for joint exploration and development of tribal leasehold in the San Juan Basin, as well as associated agreements governing joint operations, tribal participation rights, confidentiality, surface management, and indemnification

Negotiated and closed Farmout and Participation Agreement and associated operational and service contracts for development of 18,000 leasehold acres in Montana

Negotiated and closed sale of real property and injection facilities for acquisition of several saltwater disposal wells and plugged wellbores in the Permian Basin for an independent Texas operating company

Represented independent Texas operating company in negotiation of contracts for joint development of Edwards Plateau lease, including a Farmout Agreement with a complex series of drill-to-earn requirements and participation options, and a custom Joint Operating Agreement

Represented mid-size city in bidding and issuance of oil and gas lease on 1,500 acres of city land, involving negotiation of drill sites, injection rights, vehicle access, special surface and environmental damages, noise and aesthetic protections, setback and airspace restrictions, and compliance with various municipal and district ordinances

Managed and closed sale of 2,800 acres of ranch land for small Texas oil and ranch company, involving partition and exchange of adjacent lands, resurvey of riparian tracts, reservation of mineral acreage and water rights, and negotiation of easements and access rights

### Regulatory Matters:

Represented offset operator protesting Rule 37 spacing exception and substantial compliance application before Railroad Commission of Texas involving survey errors and deviated wellbore in associated-prorated oil field with complex technical testimony regarding structure geology

Successfully defended applicants for saltwater disposal well permits before Railroad Commission of Texas in protest by offset landowners and mineral estate owner for well injecting into non-productive strata

Defended small independent operator in enforcement action by Railroad Commission of Texas regarding liability for cleanup of oil blowout from legacy wellbore that had been plugged and abandoned by operator and reconditioned by landowner as water well

Negotiated Production Sharing Agreement for major international energy company among dozens of leasehold, mineral, and non-participating interest owners in multiple tracts for compliance with spacing and density rules in completion of multiple horizontal oil wells

Brandon E. Durrett (Cont.)

Represented mid-size E&P company in settlement of disputes with prior lessor regarding application of density and proration field rules to size and location of retained acreage

Successfully negotiated release of undeveloped leasehold acreage in exchange for client operator's waiver of objection to lease line spacing violation

## **Litigation and Disputes:**

Participated in defense of mid-size E&P company in litigation regarding exercise of preferential rights under multiple operating agreements in context of package sale of 40,000 leasehold acres

Successfully settled accounting of unpaid production revenue and subsurface trespass claim on behalf of unleased mineral owner by transfer of oil well facilities to client

Defended private storefront owner against multiple limitations title claims in party wall boundary dispute, resulting in non-judicial settlement and boundary line agreement

Represented non-participating working interest owner in settlement of operator's overcharge of ad valorem taxes and underpayment of production revenue from six oil wells

## **Seminars & Speeches**

*Plugging Liability: A Framework for Risk and Financial Security*, 44th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute, Houston, Texas  
April 20, 2018

*Ready! Fire! Aim! Two Drafting Traps to Avoid in Papering a "Rush" Deal*, Permian Basin Landmen's Association Luncheon, Midland, Texas  
February 13, 2018

*Fun New Ways for Density and Proration Rules to Bust Your Lease: Retained Acreage and "Governmental Authority" Language in the Wake of Three Recent Texas Cases*, 43rd Annual Ernest E. Smith Oil, Gas and Mineral Law Institute, Houston, Texas  
April 14, 2017

*A Primer on Oil and Gas Regulation in Texas, Part I: Spacing and Density*, Permian Basin Landmen's Association Education Seminar, Midland, Texas  
April 22, 2015

*Three Ways Density and Proration Rules Can Bust Your Oil and Gas Lease*, Society of Petroleum Engineers, Balcones Section Luncheon, San Antonio, Texas  
February 3, 2015

*Nuts and Bolts of the Division Order Title Opinion*, Half Moon Seminar's Agreements and Disputes in Oil and Gas Production  
October 12, 2012

## **Publications**

"Perils of the 'Notwithstanding' Clause" – Part II of "Ready! Fire! Aim! Two Drafting Traps to Avoid in Papering a 'Rush' Deal"  
August 2018  
*The Energy Dispatch*, CAIL Institute for Energy Law

"The 'Subject to the PSA' Clause vs. Merger by Deed" – Part I of "Ready! Fire! Aim! Two Drafting Traps to Avoid in Papering a 'Rush' Deal"  
May 2018  
*The Energy Dispatch*, CAIL Institute for Energy Law

"Fun New Ways for Density and Proration Rules to Bust Your Lease: Retained Acreage Clauses and 'Governmental Authority' Language in the Wake of Three Recent Texas Cases"

Brandon E. Durrett (Cont.)

Spring 2016

*Section Report of the Oil, Gas & Energy Resources Law Section, State Bar of Texas*

Reagan Marble & Brandon Durrett, *Vaquillas Unproven Minerals: Maybe You Didn't Retain That Acreage*,  
January 2016  
*120 PBLA Takeoff 110*

"A Primer on Oil and Gas Regulation in Texas: Spacing, Density, Permits, and Exceptions"  
November/December 2013  
*Landman Magazine*

"The New Organic 'Texas Tea'?: National Energy Security Implications of a Regulatory 'Clean Fuel' Ban on Texas Biodiesel"  
Winter 2008  
*Texas Tech Law Review*, Volume 40, No. 4

## **Memberships & Involvement**

San Antonio Association of Professional Landmen: President, 2018-2019; Vice President, 2017-2018; Secretary, 2015-2017;  
Education Chair, 2014-2018

State Bar of Texas, Member Oil, Gas and Energy Resources Law Section

State Bar of New Mexico

San Antonio Bar Association

## **Community/Civic Activities**

Boy Scouts of America: Eagle Scout Rank; Cubmaster, Pack 669, Alamo Area Council

## **Awards & Recognition**

- S.A. *Scene*, "San Antonio's Best Lawyers," 2016
- Recognized in *San Antonio Business Journal's* Who's Who in Energy, 2015
- Best Brief Award - ABA National Appellate Advocacy Competition, National Championship 2008-2009
- Outstanding Student Article - Texas Tech Law Review, Volume 40 Board of Editors
- CALI Awards (Top Score) - Oil & Gas Law, Administrative Law, National Security Law