

Susman Godfrey Secures Defensive Win for Apache in Royalties Class Action

Lawyers from Susman Godfrey secured a complete defensive win for Apache Corporation in March 2022 when Chief Judge H. Lee Rosenthal from the Southern District of Texas granted in full a motion to dismiss a royalty class action brought by a putative class of plaintiffs who alleged – contrary to existing law – that Apache breached thousands of mineral leases by allegedly underpaying royalties.

This case centers on contracts involving gas used for off-lease post-production activity. Plaintiffs argued that a royalty is owed on the gas that Apache used for any off-lease activities. In response, Apache demonstrated that it did not owe a royalty payment because the leases at issue provided for royalty payments based on the market value at-the-well of the gas sold or used. Apache argued that existing case law was clear that it is permitted to deduct the value of gas used off-premises for post-production activities in leases with “at-the-well” valuation language. The Court granted Apache’s motion to dismiss after reviewing the parties briefing and hearing arguments from both the Susman Godfrey team and the plaintiffs.

“We are thrilled with the Court’s decision to dismiss this case,” said Josh Nix, Senior Legal Advisor for Apache, “The Court’s decision is in line with well-settled Texas law and should resolve any question regarding how royalty payments are to be calculated under oil and gas leases of this nature.”

Lead counsel [Bill Merrill](#) went on to say, “The Court made clear that the recent Texas Supreme Court decision in *BlueStone Natural Resources v Randle* did not change the long-standing rule in Texas that post-production costs are appropriately deducted from royalty payments in leases that provide for payment based on the market value at-the-well.”

Working alongside Merrill on the case was partner [Abby Noebels](#), who added, “This is an important decision relating to the payment of royalties and deduction of expenses in market value at-the-well leases. Apache handled these leases exactly as it should have.”

Rounding out the Susman Godfrey team was Associate [Max Straus](#), who added, “The Court ruled decisively in Apache’s favor. This case confirms lessors’ right to deduct in-kind post-production expenses under a market-value-at-the-well lease—just like they may deduct cash costs.”

The Court entered final judgment in this case on March 3, 2022, dismissing all claims against Apache, with prejudice.

The case is *Shelly Nash Fitzgerald as trustee for the Jackson Family Mineral Trust vs. Apache Corporation*, Case no. H-21-1306 in the United States District Court for The Southern District of Texas.