

ENERGY ALERT

**LAND AGENT'S STATEMENTS DURING OIL AND GAS
LEASE NEGOTIATIONS MAY CAUSE PROBLEMS**

Well-drafted lease agreements contain a provision stating that the written agreement represents the entire agreement, notwithstanding any prior inconsistent oral statements. This provision is called an "integration" clause and is viewed as a basis for the use of the parol evidence rule that restricts the use of evidence outside the agreement to interpret the agreement.

A federal district court in Pennsylvania just confirmed that obtaining fully integrated oil and gas leases may not prevent a claim of fraud in the inducement to enter into the leases from going forward. In this case, the gas company's agents "assured" the landowners that the company "would never pay more than \$25.00 per acre for the lease" but sometime thereafter paid the landowners' neighbors substantially more per acre (as much as \$2500) for leases on their property to drill for Marcellus Shale gas.

The court rejected the gas company's argument that the parol evidence rule prevented the court from considering evidence outside the contracts. Relying on a 3^d Circuit case [*Mellon Bank Corp v. First Union Real Estate Equity & Mortg. Inv.*, 951 F.2d 1399, 1405 (3d Cir. 1991)], the district court concluded that "evidence of fraud in the inducement will suspend the parol evidence rule because fraud prevents formation of a valid contract." *Kropa v. Cabot Oil & Gas Corporation*, No. 3:08cv551, 2010 U.S. Dist. LEXIS 56647, at *9 (M.D. Pa. June 9, 2010). Accordingly, the court held that "[t]he parol evidence rule does not prevent an inquiry into the existence of a contract itself" (*Id.*) and denied the gas company's motion to dismiss this claim.

This decision emphasizes the need to ensure that a natural gas company land agent makes truthful statements when negotiating oil and gas leases because an integration clause may not help if a lessor brings an action alleging that an agent made false representations that induced the lessor to agree to the lease.

If you would like more information or need assistance with a lease agreement, please contact Kevin Moody at 717-237-7187 (kmoody@eckertseamans.com); or Daniel Markind at 215-851-8523 (dmarkind@eckertseamans.com); or any of our Energy Group attorneys at Eckert Seamans.

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