
Gray Reed & McGraw Secures New Mexico Supreme Court Victory; Notable for Energy Companies

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(Houston) – On September 15, 2014, the New Mexico Supreme Court issued an opinion in an eight year-old class action case, holding that oil and gas operators must pay interest on production proceeds held in suspense, regardless of whether the interest owners signed division orders purporting to waive the right to receive statutory interest on suspense funds. The opinion represents a long-awaited victory for the class of New Mexico mineral interest owners, including The First Baptist Church of Roswell, The Historical Society of Southeast New Mexico, Inc., and The Roswell Woman's Club, Inc. The class is represented by lead counsel Jim Ormiston of Gray Reed & McGraw and Kelly Mack Cassels of Sanders, Bruin, Coll & Worley, P.A.

The opinion confirms the New Mexico Oil and Gas Proceeds Payment Act contains mandatory provisions obligating operators to pay interest on suspense funds.

The defendant, Yates Petroleum Corporation, is one of the largest oil and gas producers in New Mexico. Yates has a corporate policy of holding production proceeds in suspense without paying interest on those funds, which the Plaintiff Class contended violates the New Mexico Oil and Gas Proceeds Payment Act. Yates argued the form division orders executed by the interest owners contains language excusing Yates from the obligation to pay interest under the Act. The New Mexico Supreme Court rejected Yates' argument, and determined the Act expresses a strong public policy in favor of mineral interest owners, and the form division order language violates that public policy by subverting the mandatory, statutory requirement to pay interest on suspense funds.

"The New Mexico Supreme Court properly concluded that operators can't side-step their statutory obligation to pay interest on suspense funds by inserting contrary language in a form division order," Gray Reed & McGraw attorney Jim Ormiston said. "In other words, the court upheld what the New Mexico legislature intended: operators can't hold other people's money without paying the interest that accrues on those funds."

The opinion will impact all oil and gas operators in New Mexico who do not pay interest on proceeds held in suspense in violation of the Act.

About Gray Reed & McGraw

Founded in 1985, Gray Reed & McGraw is a full-service, Texas based law firm with more than 120 lawyers practicing in Dallas and Houston. Gray Reed & McGraw offers a wide range of legal services including business litigation, corporate transactions, oil & gas, tax planning



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