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# ***Texas Supreme Court Update: A Review of the 2019-2020 Term***

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# THE TEXAS SUPREME COURT

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## 2020 ELECTION

Justice	Place	Age	Service Began	Originally	Term Ends
Nathan L. Hecht	Chief	70	1989	Elected	2020
Jimmy Blacklock	2	39	2018	Appointed	2024
Debra Lehrmann	3	63	2010	Appointed	2022
John P. Devine	4	61	2013	Elected	2024
Paul W. Green	5	68	2005	Elected	2022
Jane Bland	6	55	2019	Appointed	2020
Jeffrey S. Boyd	7	58	2012	Appointed	2020
J. Brett Busby	8	47	2019	Appointed	2020
Eva Guzman	9	59	2009	Appointed	2022

# FOUR TRENDS FROM THE 2019-20 TERM

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- 1. BUSINESS IN THE ELECTRONIC AGE**
- 2. STATUTORY INTERPRETATION**
- 3. FREEDOM OF CONTRACT**
- 4. OIL & GAS TRANSACTIONS**

# TRENDS – BUSINESS IN THE ELECTRONIC AGE

# CHALKER ENERGY PARTNERS V. LE NORMAN OPERATING

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LE NORMAN  
OPERATING LLC



**“Hitting send  
may be  
deliberate; it  
may be hasty.”**

# COPANO ENERGY V. BUJNOCH

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**No “written memorandum which is complete within itself in every material detail”**



# CREDIT SUISSE V. CLAYMORE HOLDINGS

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CREDIT SUISSE



- **\$40M is no “backup”**
- **“Second bite at the apple”**
- **Trial court’s “kitchen-sink fashion” analysis**
- **Jury could have awarded less because of “later events that neither side anticipated”**



# TRENDS – STATUTORY INTERPRETATION

# CREATIVE OIL & GAS, LLC V. LONA HILLS RANCH, LLC

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Free  
Speech  
&  
Private  
Disputes

# CREATIVE OIL & GAS, LLC V. LONA HILLS RANCH, LLC

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**“Matter of public concern”** includes an **issue related to:**

- (A) health or safety;
- (B) environmental, economic, or community well-being;
- (C) the government;
- (D) a public official or public figure; or
- (E) a good, product, or service in the marketplace.**

CPRC § 27.001(7)

# CREATIVE OIL & GAS, LLC V. LONA HILLS RANCH, LLC

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**Held: TCPA does not apply.**

**“A private contract dispute affecting only the fortunes of the private parties involved is simply not a ‘matter of public concern’ under any tenable understanding of those words.”**

# BONSMARA NATURAL BEEF V. HART OF TEXAS CATTLE FEEDERS

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# BONSMARA NATURAL BEEF V. HART OF TEXAS CATTLE FEEDERS

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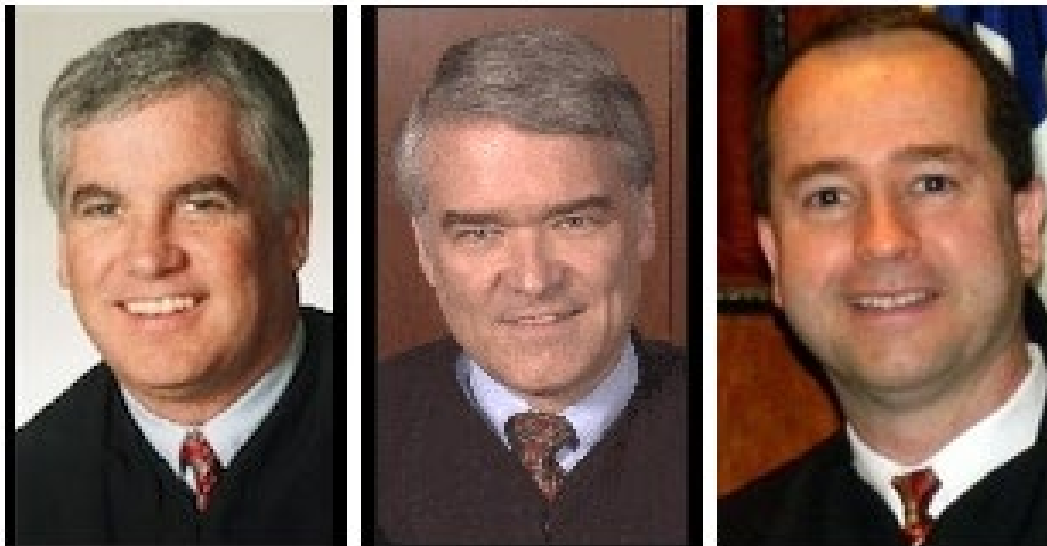
**Majority: “May” means “may”**



# BONSMARA NATURAL BEEF V. HART OF TEXAS CATTLE FEEDERS

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**Dissent: “May” means “must” for arbitration order**



# BONSMARA NATURAL BEEF V. HART OF TEXAS CATTLE FEEDERS

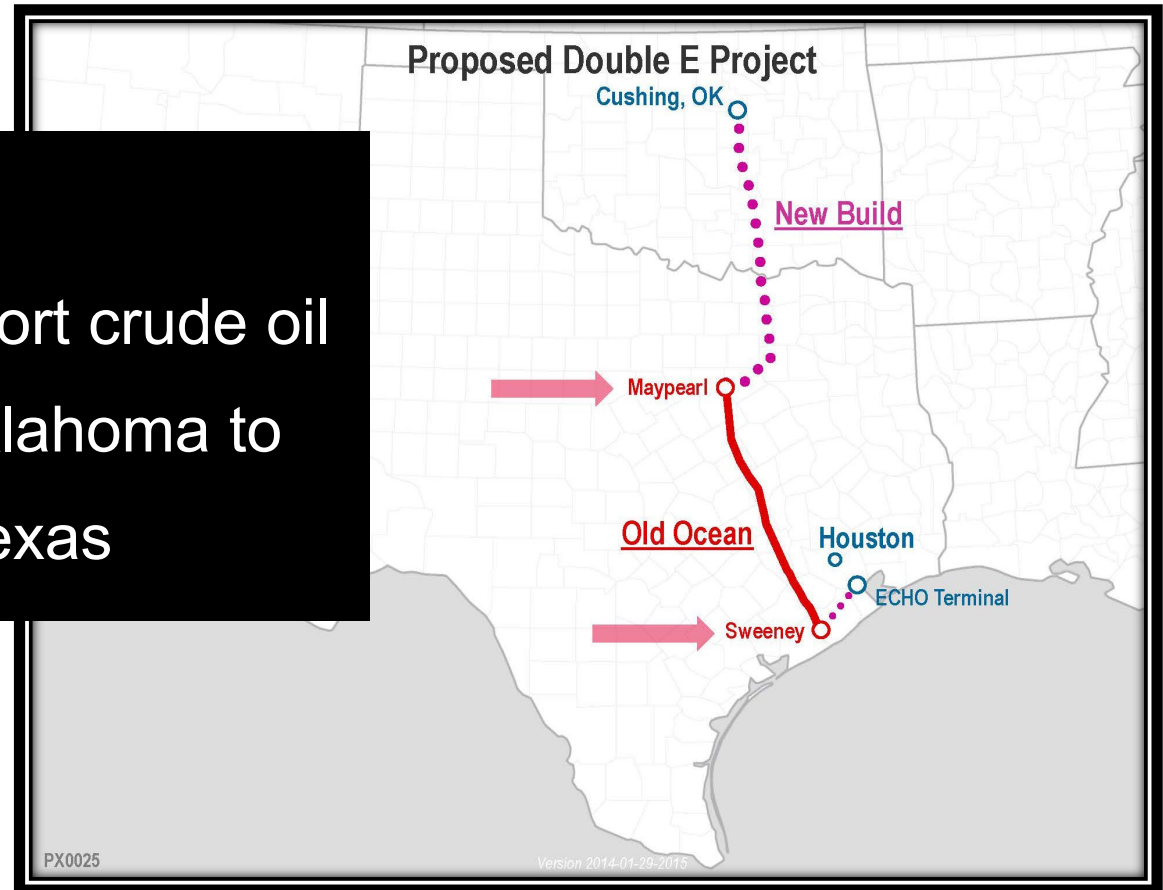
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# ETP v. ENTERPRISE PRODUCTS PARTNERS

Proposed project:  
a pipeline to transport crude oil  
from Cushing, Oklahoma to  
Houston, Texas



# ETP V. ENTERPRISE PRODUCTS PARTNERS

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## Texas Business Organizations Code

### Sec. 152.052. Rules for Determining if Partnership is Created.

- (a) **Factors** indicating that persons have created a partnership **include** the persons':
- (1) receipt of right to receive a share of profits of the business;
  - (2) **expression of an intent to be partners in the business;**
  - (3) participation or right to participate in control of the business;
  - (4) agreement to share or sharing:
    - (A) losses of the business; or
    - (B) liability for claims by third parties against the business;
- and
- (5) agreement to contribute or contributing money or property to the business.

# ETP V. ENTERPRISE PRODUCTS PARTNERS

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## **Sec. 152.003. SUPPLEMENTAL PRINCIPLES OF LAW.**

The principles of law and equity and the other partnership provisions supplement this chapter unless otherwise provided by this chapter or the other partnership provisions.

# TRENDS – FREEDOM OF CONTRACT

# LAN/STV v. MARTIN K. EBY CONSTRUCTION Co.

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# IN RE MARRIAGE OF I.C. & Q.C.

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# THE “UTMOST LIBERTY OF CONTRACTING”

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# ...ESPECIALLY BETWEEN SOPHISTICATED PARTIES

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# TRENDS – OIL & GAS TRANSACTIONS



# YOWELL V. GRANITE OPERATING COMPANY

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**Anti-washout provisions covering new leases are subject to the rule against perpetuities.**

