

Chapter 16

Jurisdictional Considerations for the Oil and Gas Practitioner¹

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§ 16.01. Introduction.

Amidst the increasing use of horizontal drilling and hydraulic fracturing and the unprecedented access these technologies have granted to the nation's shale plays, oil and gas transactions and disputes are arising more frequently and in a growing number of states. Despite the best efforts of artful scriveners, determining the forum and venue for these types of disputes often frustrates even the most-seasoned oil and gas practitioners. This chapter begins as a primer on jurisdictional matters before state and federal courts, discussing traditional diversity of citizenship jurisdiction, issues within the exclusive purview of state courts, and the state of the law on minimum contacts. This chapter evolves to consider common jurisdictional issues that arise in connection with oil and gas transactions, such as the validity of Texas choice-of-law provisions, establishing jurisdiction under the Class Action Fairness Act and jurisdictional matters surrounding Master Limited Partnerships, offshore entities, Joint Operating Agreements, and choice of law provisions in arbitration agreements. It addresses jurisdiction as it applies to business organizations, contract drafting and litigation, providing practice points and examples from oil and gas jurisprudence from around the county.

§ 16.02. Back to Law School: A Brief Review of Jurisdiction.

While any first-year law student can define the term “jurisdiction,” the application of the principles and concepts that the word represents is often far from elementary. Practitioners in the ever-expanding oil and gas industry must be particularly aware of jurisdictional matters, where such concerns have raised a host of issues that have never before been considered by legislatures or the judiciary. The Ninth Edition of *Black's Law Dictionary* dedicates no less than five pages to defining the various forms of the term “jurisdiction” and details numerous instances in which the word's meaning is slightly altered to fit a particular situation.² In its most basic form, the term “jurisdiction” is defined as: “[a] government's general power to

² *Black's Law Dictionary*, 927-932 (Bryan A. Garner ed., 9th ed. West 2009).