

# CHAPTER 17

## Ambiguities in Deeds, Leases, and Assignments

John N. Teeple  
and  
William J. Kissinger  
Geiger, Teeple, Smith & Hahn  
Alliance, Ohio

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## § 17.01. Introduction.

The oil and gas lease is the basic instrument under which oil and gas exploration and development is ordinarily conducted. The modern oil and gas lease is a very complex instrument which is the product of many years of rapid evolution. The length as well as the complexity of the instrument has increased considerably since the time of the first reported oil and gas lease.<sup>(1)</sup>

To understand fully the evolution of the oil and gas lease, we will begin by examining the first reported lease:

Agreed this fourth day of July, A.D. 1853, with J.D. Angier of Cherrytree Township, in the County of Venango, Pas., that he will repair up and keep in order, the old oil spring on land in said Cherrytree Township, or dig and make new springs, and the expenses to be deducted out of the proceeds of the oil, and the balance, if any, to be equally divided, the one-half to J.D. Angier and the other half to Brewer, Watson & Co., for the full term of five years from this date. If profitable.

Brewer, Watson & Co.

J.D. Angier<sup>(2)</sup>

As one can ascertain, this simplistic lease allows for many controversies between the two parties. How a court is to deal with the controversies which result from the construction of the instrument is the subject of this Chapter. By understanding how a court will likely interpret an agreement, the parties to the agreement can take steps to circumvent the need for judicial intervention by their initial wording of the agreement. Controversy concerning the agreement can be prevented by familiarity with judicial interpretation.

As Professor Kuntz has observed:

Although the oil and gas lease appears in many forms and there is no standard oil and gas lease, there is sufficient similarity among leases and the objectives sought by the parties thereto that it is possible to refer to the oil and gas lease as a special type of instrument.<sup>(3)</sup>

Due to the specialized nature of the oil and gas lease, one must look to a court's methods of interpreting the oil and gas lease. We will begin by examining the general considerations utilized by courts in attempting to resolve ambiguities. Next, we will look at these general considerations as they relate to oil and gas leases. Finally, we will look at specific problems with deeds, leases, and assignments in the oil and gas industry.

## § 17.02. General Considerations of the Established Rules of Construction.

The established rules of construction are used only when the instrument is not clear, is ambiguous, or is