



## Thomas W. Paterson Partner

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### Overview

**Solving real problems for real people is why I'm a trial lawyer. Solving these problems successfully is why my clients come back again and again.**

*"**Tom Paterson is absolutely one of the best and the brightest in his field.** His insight, patience, diplomacy, honesty, intelligence, creativity, candor and diligent professionalism reflect well on him and on me, as my in-house clients have often congratulated me for finding the right lawyer for the job."*

Janice Hartrick, Former General Counsel, Seagull Energy

I began working with Janice Hartrick in 1991, when she was at Seagull Energy. I worked with her and her colleagues on 18 separate matters, successfully defending and protecting them against millions of dollars in potential exposure.

*"Tom Paterson is smart and creative. From day one, he takes the initiative and drives his cases to success. **He provides good judgment, wise counsel and consistently good results.**"*

Ray Albrecht, Former Head of Litigation, Enterprise Products

I began working with Ray Albrecht of Enterprise Products in 2004. I worked with him and his colleagues on dozens of matters involving hundreds of millions of dollars.

*"I have repeatedly hired Tom Paterson to resolve complex, commercial disputes. He is always prepared. His counsel is strategic. **Tom consistently delivers.**"*

David Castro, Former Chief Legal Counsel, Hess Corporation

David Castro hired me in 2011 to work on a matter in the Eagle Ford. We resolved it. Since then I have worked with Hess on multiple matters valued at hundreds of millions of dollars in the Utica, the Bakken and in the deep water Gulf of Mexico.

*“As a practicing lawyer for 35 years and the former GC of a large public corporation, I have provided legal services and also hired and worked with many lawyers. I retained Tom for a personal legal matter and found him to be **an exemplar of the legal profession**. Tom is smart, prepared, creative, and responsive. He was dedicated to my best interests. He listened, counselled, and collaborated with me on approach and acceptable outcomes. Tom spotted the relevant issues and efficiently coordinated needed experts to provide the best representation, both in terms of dispute resolutions and costs. He demonstrated integrity, civility, and determination that were foundational to effective advocacy and timely resolution. While I was a client with a very small legal matter, Tom treated me like I was his most important priority.”*

Gayla Thal, Former SVP-Law & GC, Union Pacific Railroad Co., Inc.

#### **How I Work**

My objective with any legal dispute I take on is simple: keep as much money in my client's pocket as possible. Over 35 years of successfully litigating and trying cases has made me keenly aware of the fact that there are times when it is in my client's best interest to take their case through trial and appeal and there are times when another deposition or another skirmish isn't worth the cost. I am straightforward with clients about which route I recommend. This is true whether the client is the plaintiff or the defendant, both of whom I have a proven history of representing effectively.

At the onset of any case, I immediately become an expert on the facts and the law. If the matter can be resolved early, without filing it or incurring extensive expenses associated with litigation, I pursue that route. Thinking creatively and acting swiftly can be critical – a fact I proved when I resolved a dispute for Dixie Pipeline within two months, from filing to completing trial. Another example of this is when I resolved a matter in six weeks that had been lingering for more than 30 years. In that case, we told the defendant that its leases would be cancelled if the jury agreed with us on our contract allegations – the defendant promptly settled.

#### **Focus on Energy**

For close to three decades, I have represented E&P companies, gas processors, mid-stream companies and royalty owners in disputes, often against major, integrated companies. My knowledge and experience in this area is vast. I have tried cases spanning the entire energy chain and involving disputes over contracts, public and private royalty owner lawsuits, and industry consolidation, realignment, and energy-related antitrust matters.

More broadly, my experience includes issues relating to the obligation to develop leases, claims of environmental and other damage, audit disputes, disputes over joint accounting procedures under COPAS, drilling disputes, preferential-purchase-right claims, claims arising under gas gathering, processing and gas balancing agreements, rights to seismic and other geologic data, litigation over farmout and AMI agreements and the right to revoke acceptance of oilfield goods under the UCC. The lawsuits I have handled have given me substantial experience with issues arising from oil and gas exploration and production and mid-stream operations

This is all a natural fit for someone who grew up near mining communities in the Southwest. My Ph.D. in applied economics with a heavy emphasis on empirical research enables me to undertake large, complex cases requiring extensive expert discovery and testimony.

#### **Recognition**

It is not just clients who have recognized my legal talents. I have been recognized by several leading legal publications for my litigation successes. Most recently, I was ranked by *Chambers U.S.* as a “Recognized Practitioner” in Energy: Natural Resources, Texas. I was also named a “Recommended Lawyer” by *The*

*Legal 500* in Energy Litigation – Oil and Gas.

**Contact Me**

I've told you why I'm a trial lawyer, how I work my cases, and why my clients keep returning. If you have a problem, I'm available to discuss it and candidly assess whether I can help you resolve it. I'll tell you straight if I can help or refer you to someone else if I can't. Contact me at (713) 653-7815 or [tpaterson@susmangodfrey.com](mailto:tpaterson@susmangodfrey.com).

## Education

- University of Wisconsin, School of Law (J.D. *magna cum laude*, Order of the Coif)
- University of Wisconsin, College of Agriculture (Ph.D., Agricultural Economics, Dissertation, "Legal Economic Analyses of Competition in the United States Food System;" M.A., Agricultural Economics, *with distinction*)
- Texas A&M University (B.S. Agricultural Economics, *summa cum laude*)

## Clerkship

- Judicial Clerk, The Honorable Thomas Gibbs Gee, U.S. Court of Appeals for the Fifth Circuit

## Notable Representations

**Multiple Matters on Behalf of Hess Corporation**

- Represented Hess Ohio Resources in a suit brought by a mineral lessor in Jefferson County, Ohio, who claimed that the oil and gas lease he signed in 2008 terminated in 2010. After a bench trial, the Court ruled for Hess in a complete victory.
- Represented Hess Ohio Resources in two suits brought by oil and gas lessors with property in Ohio. The lessors claimed that their oil and gas leases, which they signed in 2006, had terminated after a five-year primary term. I was retained to persuade the two federal district courts in Ohio to reconsider their rulings that the leases had terminated. The Sixth Circuit agreed with our position that the leases had two consecutive five-year primary terms and the leases had not terminated at the end of the first five-year term.
- Represented Hess Corporation in resolving three separate disputes involving leasehold interests valued at over \$1 billion in the Eagle Ford Shale in South Texas, leaseholds with a joint venture partner in the Utica Shale in Ohio, and contract and fraud claims relating to a billion dollar sale of leasehold assets in the Bakken Shale of North Dakota.
- Defended Hess Corporation against Jack Grynberg's claims involving a net profits agreement on oil and gas interests in Mississippi's Tallahala field. The plaintiff filed suit in Colorado federal court, and soon after, a related action was filed against Hess in Mississippi state court. The Colorado court dismissed Grynberg's claims against Hess on procedural grounds. The Mississippi court granted summary judgment on claims against Hess and other claims were settled on terms favorable to Hess.

**Multiple Matters on Behalf of Enterprise Products Partners L.P.**

- Defended Enterprise Products against Marathon's claims of breach of contract, fraud, and conspiracy concerning the dedication of natural gas processing rights for gas produced from the deep-water Gulf of Mexico. I persuaded the arbitrator to dismiss nearly all of Marathon's claims on summary judgment, including Marathon's \$45 million consequential damages claim and numerous breach of contract and fraud claims. The case settled the case on highly favorable terms.
- Represented Enterprise Products Operating LLC and Mid-America Pipeline Company, LLC as plaintiffs in a

lawsuit against Flint Hills Resources, L.P., a subsidiary of Koch Industries. The dispute, valued at \$30 million arose in connection with a natural gas liquids storage and purchase agreement between Enterprise and Flint Hills. The case settled on confidential terms.

- Represented Enterprise Products Operating L.P. in a dispute with Sunoco Pipeline over who was entitled to purchase approximately \$70 million in stock in Dixie Pipeline Company. After five weeks of discovery and a two-day bench trial, the court found for Enterprise on all issues.
- Represented Enterprise Field Services in a declaratory judgment action over long-term gas gathering agreements in the San Juan Basin of northwestern New Mexico. Also defended Enterprise Field Services in multiple forums against ConocoPhillips' allegations of state antitrust and regulatory violations relating to those gas gathering agreements

#### **Contract Disputes**

- Secured a summary judgment win for EP Energy E&P against Fairfield Industries, Inc. on Fairfield's breach-of-contract claims in a multi-million dollar seismic data licensing dispute. This case remains on appeal.
- Represented a mid-stream company in an expedited arbitration against a joint-venture partner on one of its pipelines. The arbitration involved claims that the joint-venture partner breached its fiduciary duties by refusing to agree to increase throughput on the pipeline to return it to its nameplate capacity under the parties' operating agreement. After limited document and oral discovery, the case settled favorably for our client.
- Successfully represented Apache Corp. in major litigation against Concho Resources Inc. regarding the exercise of preferential purchase rights on hundreds of millions of dollars of oil and gas assets in the Permian Basin of West Texas and New Mexico.
- Represented Jonah Gas Gathering Co. in a declaratory judgment action against Williams Field Services on Williams' claims that Jonah breached an interconnect agreement to deliver gas to a Williams gas processing plant in Wyoming. Williams moved to dismiss that case against Jonah (a Texas resident) based on forum non conveniens. I successfully defeated Williams' motion in the trial court, and subsequently defeated Williams' mandamus petitions in the Fourteenth Court of Appeals and the Texas Supreme Court.
- Represented Apache Corp. against Virginia Power Energy Marketing, Inc. and Dominion Resources, Inc. in a dispute related to the devastation caused by Hurricanes Katrina and Rita to the natural gas production and pipeline infrastructure along the Gulf Coast. The trial court granted Apache's motion for summary judgment and the Court of Appeals affirmed.

#### **Public and Private Royalty Owner Lawsuits**

- As co-lead counsel for the class, secured settlement checks totaling more than \$18.9 million for over 4,300 royalty and overriding royalty owners across the United States who sued ConocoPhillips for alleged underpayment of royalty due on natural gas liquids produced from the San Juan Basin of northwestern New Mexico and processed at the New Blanco Plant near Bloomfield, New Mexico.
- As co-lead counsel to the class, secured a settlement valued at \$12 million (of which \$3.5 million was awarded as attorneys fees) in a class action lawsuit on behalf of a class of royalty owners who leased mineral rights to Oxy USA Inc. for the production of carbon dioxide from the Bravo Dome Carbon Dioxide Unit in northeastern New Mexico. Oxy also agreed to change how it calculates plaintiffs' royalty on a going-forward basis.
- Served as co-lead counsel to the New Mexico Commissioner of Public Lands in its dispute against Oxy USA Inc. over the proper payment of royalties to it for CO<sub>2</sub> from the Bravo Dome Unit, the New Mexico. Oxy agreed to pay \$11.8 million in cash and use a new royalty formula that ties CO<sub>2</sub> value to the price of oil, eliminates post-production deductions and reduces transportation expenses. The Court awarded \$1.4 million in attorneys' fees.

#### **Other Representative Cases**

- Represented American Central Gas Companies in an arbitration in connection with its antitrust claims. During a two-week binding arbitration — less than two months after being ordered to arbitration — I proved

that defendants, Union Pacific Resources and Duke Energy Field Services, had monopolized the market for natural gas processing in Panola County, Texas.

- Represented Unocal in an antitrust lawsuit challenging the a hostile takeover attempt by Mesa Petroleum.
- Represented Hunt Petroleum Corporation executives in connection with a suit by a great-grandson of H.L. Hunt who claimed breaches of fiduciary duty and fraud against the trustees of the trusts that owned Hunt Petroleum Corporation. During the pendency of the case, XTO purchased Hunt Petroleum. This case settled.
- Represented defendants in an action alleging breach of natural gas gathering contract. Settled during preliminary injunction hearing.
- Defended True Oil and subsidiaries against claims of tortious interference with contract in Honduras, tortious interference with prospective business relationships with the Government of Honduras, and seismic trespass in Honduras. Plaintiffs claimed damages exceeding \$100 million. The court dismissed the seismic trespass claim and entered partial summary judgment on certain interference claims. The jury verdict was for True Oil on all remaining claims.
- Represented Toolpushers on its claim concerning defective pipe. The case settled.
- Represented Black Hills on its claim for breach of contract and declaratory judgment in connection with indemnification provisions in a Master Services Agreement. The case settled.
- Defended Toolpushers in action seeking \$6.5 million in damages for alleged breach of warranty concerning casing fittings used in a well in the Gulf of Mexico. The Court granted Toolpushers' motion for summary judgment.
- Represented plaintiffs in an action for breach of contract to deliver seismic data in connection with a stock purchase. The case settled after discovery closed.
- Took over the defense and representation of Seagull Energy in several of their ongoing high stakes litigation matters including
  - mineral owners' actions to terminate oil and gas leases due to alleged nonproduction by Seagull's predecessor. The cases settled.
  - an action alleging repudiation of contract. Plaintiffs sought damages exceeding \$90,000,000. The case settled on confidential terms after filing pretrial order.
  - an action alleging breach of indemnification provisions in a stock purchase agreement. Settled after filing pretrial order.
  - action for declaratory judgment concerning gas transportation agreements. The case settled.
- Represented Enserch Exploration in an action for breach of contract over Enserch's right to use a semi-submersible drilling rig. The case settled on confidential terms after a hearing on Enserch Exploration's application for a temporary restraining order.

## Honors and Distinctions

- "Recognized Practitioner – Texas, Energy: Natural Resources", Chambers U.S., 2017 & 2018
- Recommended Lawyer, Energy Litigation Gas & Oil, The Legal 500, (Legal 500), 2017 – 2022
- "Texas Super Lawyer", Law & Politics Magazine (Thomson Reuters), 2004-2021
- Martindale-Hubbell AV Preeminent Rating (2021, 2022, 2023 Martindale-Hubbell)
- Life Fellow — Texas Bar Foundation
- Fellow — Houston Bar Foundation
- Distinguished Alumni Lecturer in Agricultural Economics, University of Wisconsin
- Quality of Research Discovery Award, American Agricultural Economics Association

- Rudder Award (Outstanding Graduate), Texas A&M University
- Outstanding Conservation Rancher of the Year for Southwestern New Mexico
- New Mexico Tree Farmer of the Year

## Articles and Presentations

- *“The Wallow Fire: 30, 000 Acres and 50 Miles of Fence Later,”* UNM Law School (Fall 2011)
- *“The Wallow Fire: Implications of Catastrophic Fire on Management, Use and Enjoyment of Our Natural Resources,”* New Mexico Bar Association, Natural Resources, Energy and Environmental Law Section (Summer 2011 CLE)
- *“What are the Lawyer’s Ethical Obligations When Agendas Collide?”* New Mexico Bar Association, Natural Resources, Energy and Environmental Law Section (Winter 2010 CLE)
- *“Professionalism in the Face of Passionate Conflict,”* New Mexico Bar Association, Natural Resources, Energy and Environmental Law Section (Winter 2010 CLE)
- *“New Mexico’s Natural Resources and Its Threatened and Endangered Species: When Agendas Collide,”* New Mexico Bar Association, Natural Resources, Energy and Environmental Law Section (Summer 2010 CLE)
- *“Developments in Royalty Class Actions,”* 56th Annual Oil and Gas Law Program, Institute for Energy Law of The Center for American and International Law (formerly The Southwestern Legal Foundation) (2005)
- *“Multidisciplinary Practice-What It Is and What It Might Mean In The Oil Patch,”* 51st Annual Institute on Oil And Gas Law and Taxation, Southwestern Legal Foundation, Ch.9S (2000)
- *“The Effects of Monsanto, Matsushita and Sharp on the Plaintiff’s Incentive to Sue,”* 23 Conn. L. Rev. 333 (1991)
- *“The Sunkist Case: A Study in Legal – Economic Analysis”* (1987)
- *“Sherman Section 2 Monopolization for Agricultural Marketing Cooperatives,”* 60 Tulane L. Rev. 955 (1986)
- *“State Sales-Below-Cost Laws: Evidence from the Grocery Trade,”* 62 J. Retailing 166 (1986)
- *“Policies to Promote Competition,”* in *The Organization and Performance of the U. S. Food System* (1986)

## Professional Associations and Memberships

- Admitted to practice in Texas, New Mexico and before the United States Supreme Court, the U.S. Court of Appeals for the Fifth Circuit, and the U.S. District Courts for the Southern District of Texas, the Eastern District of Texas, the Northern District of Texas and the District of New Mexico
- State Bar of Texas
- State Bar of New Mexico
- Natural Resources, Energy, and Environmental Law Section for the State Bar of New Mexico, Board of Directors, 2008-present, Chair 2011
- Texas and Houston Bar Associations, 1985 – present
- CLE speaker, Texas and New Mexico
- American Bar Association, 1985 – present
- American Agricultural Economics Association, 1980 – present
- Spur Ranch Cattle Co. LLC, 500 head commercial cow – calf operation on 116,000 acres in New Mexico and Arizona, Member

- Arizona Cattle Growers' Association, Member
- New Mexico Cattle Growers' Association, Member of Board of Directors

**BOARD AND PUBLIC SERVICE**

- College of Agriculture Development Council, Texas A&M University
- Ministry to Muslims, Vice-Chairman