

Court rules in favor of Eclipse in oil and gas lease case

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On November 30, 2017, the U.S. Court of Appeals, Sixth Circuit [issued](#) an [opinion](#) in *Eclipse Resources - Ohio, LLC v. Madzia*, affirming the lower court's grant of summary judgment to Eclipse Resources in all respects.

In this case, Eclipse took assignment of a 2006 oil and gas lease which stated, in relevant part, "[Madzia] does hereby grant unto the Lessee all of the oil and natural gas from any source, ... together with the exclusive rights to drill for, produce, collect, store and market oil and gas and their constituents ... Lessee shall have the right to transport from, across and through lands hereinafter described oil and gases and their constituents from the subject lands and other lands." In 2013, Eclipse and Madzia executed a lease amendment that added, among other things, a legal compliance clause requiring Eclipse to conduct all operations in accordance with all applicable laws and regulations. Eclipse then sought a drilling permit for a well on the Madzia property. When Eclipse submitted its application, it also submitted "an affidavit signed by Madzia stating that he owned the coal rights on the property and that he did not object to Eclipse's drilling."

In early 2014, Eclipse and Madzia entered into a separate subsurface easement which granted Eclipse "a subsurface easement and right-of-way to enable [Eclipse] to drill a wellbore or wellbores across, through and under the subsurface of the Subsurface Tract, as to all depths and formations, and to provide [Eclipse] ingress to and egress from, and the right to penetrate, use and occupy, the entire subsurface of the Subsurface Tract for a wellbore or wellbores." The subsurface easement was subject to the following limitation: This subsurface easement and right-of-way "is strictly limited in application and can only be used in conjunction with drilling operations on the [Madzia Wells] and for no other purpose or purposes whatsoever."

Later in 2014, Eclipse sought to use the existing well pad on the Madzia property to drill a different well under an adjacent property, but Madzia refused to sign a new affidavit or to amend the subsurface easement. Eclipse then submitted the previous 2013 affidavit from the prior well application to the Ohio Department of Natural Resources (ODNR) and received a well permit based in part on the re-used affidavit. Madzia then filed suit alleging breaches of the lease, subsurface easement agreement and bad faith on the part of Eclipse for failing to perform hydraulic fracturing operations on the well on his property.

On appeal, the Sixth Circuit affirmed the district court's entry of summary judgment on all claims raised. Applying Ohio contract interpretation principles, the court of appeals held that the language of the lease "unambiguously granted Eclipse the rights to drill for and to transport oil and gas through Madzia's property," affirming Eclipse's ability to drill the second well. The court further held that the subsurface easement did not modify the rights granted in the lease because the "subject matter of the lease differ[ed] from that of the easement agreement," thereby, rendering it inapplicable to Eclipse's right to drill the adjacent well. The court then held that Eclipse's use of the re-used affidavit did not violate the Ohio Revised Code and that this argument was waived by Madzia's refusal to sign the affidavit — a breach of the further assurances clause of the amendment to the lease. Finally, the court held that Eclipse did not act in bad faith by failing to hydraulically fracture the initial well drilled on Madzia's property, because it was Eclipse's option to decide whether to do so under the lease. And it had presented un rebutted evidence as well as an ample explanation as to why it had not yet done so.

This case is likely to affect the language that landowners and production companies negotiate when entering into future oil and gas leases.

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