

ENERGY, UTILITIES, OIL & GAS ALERT

6/3/15

Ohio Supreme Court Accepts Review of Certified Question from Ohio Federal Court in Royalty Case

By **Mike Traven**

Today the Ohio Supreme Court accepted review of a certified question from the Northern District of Ohio federal court in a case that is significant to the oil and gas industry in Ohio. The accepted certified question is: “Does Ohio follow the ‘at the well’ rule (which permits the deduction of post-production costs) or does it follow some version of the ‘marketable product’ rule (which limits the deduction of post-production costs under certain circumstances)?” The case, *Lutz v. Chesapeake Appalachia, L.L.C.*, is a putative class action in which the plaintiff-landowners claim that the defendant-producer underpaid gas royalties. The dispute centers on the royalty clauses in the relevant leases and relates to post-production costs—i.e., the costs incurred after gas is produced at the wellhead, such as processing and transportation costs, but before it is sold downstream. More specifically, the question relates to whether the defendant-producer can deduct these post-production costs from the royalty payments owed to the plaintiff-landowners and, if so, how to calculate those deductions. The Ohio Supreme Court’s answer to this certified question will have a wide-ranging impact on Ohio’s oil and gas industry.

The Energy, Utilities, Oil & Gas team at Roetzel will provide updates on this case as events before the Ohio Supreme Court dictate. If you have any questions, please contact any of the attorneys listed below.

Dan Hilson

Legislation & Regulatory Compliance
614.723.2060 | dhilson@ralaw.com

Matthew D. Austin

Labor & Employment
614.723.2010 | maustin@ralaw.com

Shane Farolino

Environmental, Regulatory & Emergency
Response
330.849.6680 | sfarolino@ralaw.com

Steve Funk

Enforcement of Easement Rights and Oil & Gas
Leasing Disputes
330.849.6602 | sfunk@ralaw.com

Erika Haupt

Estate & Succession Planning
614.723.2037 | ehaupt@ralaw.com

Ron Lee

Toxic Exposures and Insurance Litigation
330.849.6648 | rlee@ralaw.com

Don Mason

Public Utilities
614.723.2011 | dmason@ralaw.com

Randy Moore

Oil & Gas Litigation, Leasing & Well Development
330.849.6627 | rmoore@ralaw.com

Moira Pietrowski

Litigation
330.849.6761 | mpietrowski@ralaw.com

Doug Spiker

OSHA, Employment & Workers’ Compensation
216.696.7125 | dspiker@ralaw.com

Brian Tarian

Workers’ Compensation
614.723.2028 | btarian@ralaw.com

Steve Thompson

Oil & Gas Title Examination
239.649.2709 | sthompson@ralaw.com

Mike Traven

Leasing Litigation
614.723.2071 | mtraven@ralaw.com

Mike Yashko

Mineral Rights, Land Acquisition & Well
Development
239.338.4249 | myashko@ralaw.com

This Alert is informational only and should not be construed as legal advice. ©2015 Roetzel & Andress LPA. All rights reserved.
For more information, please contact Roetzel’s Marketing Department at 330.849.6636.