

Defendants,

Blancett #1
30-045-09347

6-24-2000-126

and

**NORMAN L. GILBREATH and
LORETTA E. GILBREATH, husband
and wife, et al.**

**Third Party Plaintiffs/
Counter-Claimants,**

vs.

A. M. MICKEY O'HARE,

Third Party Defendant.

ORDER ON MOTIONS FOR SUMMARY JUDGMENT

This matter came before the Court on notice for hearing January 24, 2000, upon all pending motions with the plaintiff and third-party defendant appearing by their counsel and in person by A. M. O'Hare, the defendants and counterclaimants Gilbreaths appearing by their counsel and in person, and the defendants Blancetts appearing by their counsel and in person. The Court first took up the Cross-Motion for Summary Judgment and Motion for Reconsideration filed by Gilbreaths and after that the Motion



for Summary Judgment filed by Maralex and O'Hare. The Court received the oral arguments of counsel, has considered the pleading on file, affidavits, briefs and legal authorities of the parties and being fully advised in the premises concludes that there are no genuine issues of material fact and that summary judgments can be entered as a matter of law AND IT IS THEREFORE ORDERED AND ADJUDGED AS FOLLOWS.

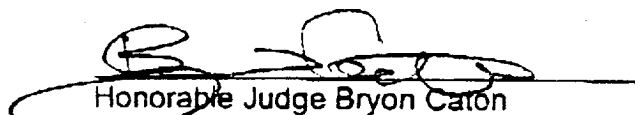
1. The plaintiff Maralex Resources, Inc.'s motion for partial summary judgment concerning the declaration of the validity of the oil and gas leases held by it on the mineral interests of the defendants Blancetts and the invalidity of the oil and gas lease previously held by the defendants Gilbreaths and Caprock Energy Company was ruled upon in favor of plaintiff on such motion and a Summary Judgment Order was entered in this cause on February 16, 1996. Thereafter the defendants Gilbreaths and Caprock Energy Company moved to set aside the Summary Judgment Order and for reconsideration; on September 30, 1997, the Court entered its Order On Motion to Set Aside Summary Judgment and Reconsider, whereby it reconsidered the said prior decision on partial summary judgment and having done so concluded that the February 16, 1996 Summary Judgment Order was properly granted and was affirmed. The defendants Gilbreaths and Caprock Energy Company have once again by their pending motions raised the issues concerning the termination of the December 30, 1959 lease on the mineral estate of the Blancetts, the Court has once again considered the arguments of the parties and concludes that the December 30, 1959 lease terminated as a matter of law and that the Summary Judgment Order granted plaintiff Maralex Resources, Inc. on those issues is reconfirmed and should be effectuated.

2. The plaintiff and counter defendant O'Hare has moved for partial summary judgment in their favor on all claims alleged under the Amended Counterclaim filed on September 24, 1997, on behalf of counterclaimants Gilbreaths and Caprock Energy Company; the Court concludes that the movants are entitled to judgment as a matter of law and the motion for partial summary judgment on the Amended Counterclaim is hereby granted in favor of counterdefendants Maralex Resources and O'Hare and against Gilbreaths and Caprock Energy Company.

3. The Fourth Cause of Action of the plaintiff's Complaint, for damages by reason of the Gilbreaths continuing to possess and sell the oil and gas production from the Blancett No. 1 well after termination of the December 30, 1959 lease, remains for adjudication. The Motion For Order to Compel Gregory J. Nibert, Esq., to Appear at Deposition which was filed on December 21, 1999, by the defendants and counterclaimants Gilbreaths and Caprock Energy Company is mooted by the Court's ruling reflected in Paragraph 1. above.

4. The defendants Norman L. Gilbreath and Loretta E. Gilbreath are hereby enjoined from continuing to operate and retain dominion over the Blancett No. 1 well and from possessing and selling the production of oil and gas therefrom and they shall forthwith surrender possession to plaintiff.

5. There being no just reason for delay the orders granting partial summary judgment on the plaintiff's claim of lease ownership and summary judgment on the Counterclaim constitute a final judgment pursuant to Rule 1-54B, NMRA.


Honorable Judge Bryon Caton
District Court Judge

Submitted:

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