

# KELLY HART

ATTORNEYS AT LAW

## TODD W. SPAKE Partner

todd.spake@kellyhart.com  
P: (817) 878-3592 F: (817) 878-9280

*Fort Worth*



### BIOGRAPHY

Todd W. Spake is the chair of Kelly Hart's Oil & Gas/Energy practice and represents oil and gas operators and interest owners in his broad-based energy practice. Mr. Spake's primary focus is on transactional matters, including the acquisition and divestiture of oil and gas producing properties, mineral interests and midstream assets, joint development agreements, farmouts, natural gas processing and sale agreements, water use and disposal agreements, seismic agreements, complex rural and urban oil and gas leases and surface use agreements, pipeline easements, wind power agreements, and sand and gravel development agreements.

Mr. Spake also has experience guiding clients through a variety of energy-related litigation matters, including cases involving oil and gas royalty underpayments, oil and gas lease termination issues, seismic trespass claims, inverse condemnation of mineral rights by governmental entities, as well as energy-related contract disputes.

### EXPERIENCE AND HIGHLIGHTS

- Represented a privately held company in the acquisition of mineral interests and overriding royalties across the Permian and Delaware Basins, in numerous transactions totaling over \$500 million.
- Represented a group of privately held entities in their sale to a major oil company for total consideration of over \$6.6 billion, involving over 275,000 acres of producing properties primarily located in the Delaware Basin within New Mexico.
- Represented a privately held E&P entity in the sale of oil and gas producing properties in the Delaware Basin to a publically traded company for a purchase price of \$855 million
- Represented a privately held E&P entity in the acquisition of oil and gas producing properties located in Wyoming for a purchase price over \$500 million
- Represented a group of privately held E&P entities in the sale of producing Permian Basin assets for over \$500 million
- Represented a privately held E&P entity in the acquisition of oil and gas producing properties in the San Juan Basin for over \$400 million
- Represented a privately held E&P entity in the acquisition of producing properties in West Texas for \$370 million
- Represented a privately held E&P entity in the acquisition of oil and gas producing properties in the Permian Basin for \$300 million
- Represented a privately held E&P entity in the acquisition of producing properties in North Dakota for \$200 million
- Represented a privately held E&P entity in the acquisition of oil and gas producing properties in the Haynesville Shale for \$200 million

- Represented a privately held E&P operator in the negotiation of a joint development agreement covering 100,000 acres in Montana
- Represented an operator in the acquisition of 32,000 net acres of oil and gas leases in the Barnett Shale area, and the subsequent negotiation of a joint development agreement covering the acreage
- Represented a large trust in the leasing of mineral interest covering over 6,000 acres in the Eagle Ford Shale, and retaining working interest participation rights
- Represented a private university in the leasing of its campus for development in the Barnett Shale, and continuing representation in the leasing of its endowment assets across Texas
- Represented a privately held E&P operator in the negotiation of a multi-well joint development agreement in Lea County, New Mexico
- Represented landowners and exploration companies in the negotiation of complex oil and gas leases on large ranches and thousands of acres in urban drilling areas
- Represented several real estate developers and exploration companies in the negotiation of complex oil and gas surface use agreements
- Represented landowners in the negotiation of wind energy leases and option agreements
- Represented a client before the Texas Supreme Court in obtaining mandamus relief in the first published opinion holding that seismic data is a trade secret under Texas law
- Represented a client in obtaining a summary judgment, upheld the ruling on appeal, and defeated an alleged \$30 million dollar breach of a natural gas sales contract
- Represented a private energy company in the trial court and on appeal, obtaining and upholding a \$12 million judgment for the breach of a covenant not to compete in the sale of a large natural gas processing and gathering system

## AFFILIATIONS AND HONORS

### AFFILIATIONS

- Texas Bar Foundation, Fellow
- AddRan College, Texas Christian University, Board of Visitors
- Adjunct Professor, Energy MBA program, Texas Christian University, 2014-present
- Institute for Energy Law, Advisory Board Member
- Texas Tech School of Law Energy Law, Advisory Board
- Fort Worth Public Library Foundation, Board of Directors
- University of North Texas Health Science Center Foundation, Board of Directors

### HONORS

- Texas Super Lawyers, Thomson Reuters, 2020
- Listed in *The Best Lawyers in America*®, 2008-2021
- Top Attorney in Oil and Gas Law, *360 West* magazine, 2017-2020
- Top Attorney, *Fort Worth, Texas* magazine, 2005-2020
- Top Attorney in Land Use & Environment, *360 West* magazine, 2017-2019
- Texas Super Lawyers Rising Star, Thomson Reuters, 2007-2010
- 40 Under 40 honoree, *Fort Worth Business Press*, 2006
- Rated AV® Preeminent™ by Martindale-Hubbell

## EDUCATION

- Texas Tech University School of Law, J.D., *summa cum laude*, 1996  
*Texas Tech Law Review*, Associate Editor, 1995-1996  
Order of the Coif
- Texas Christian University, B.S., 1992

## ADMISSIONS

- State Bar of Texas, 1996
- U.S. District Court, Northern District of Texas, 1997
- U.S. Court of Appeals, Fifth Circuit

## SPEECHES & PUBLICATIONS

- "Potential Pitfalls in the Purchase and Sale of Oil and Gas Properties," Women in Energy Luncheon, February, 2018.
- "Implied Covenants in an Oil and Gas Lease," Fort Worth Association of Professional Landmen, November 20, 2014
- "Surface Use Agreements: Conflicts Between Severed Surface and Mineral Estates," AAPL Southwest Land Institute, April 30, 2013
- "Regulation of Urban Oil and Gas Drilling and Inverse Condemnation," Tarrant County Bar Association, May 2009
- Co-Author, "3-D Technology Opens Legal Issues in Oil and Gas Exploration," *Texas Lawyer*, 2002
- "Beyond the Ordinary Oil and Gas Lease," Fort Worth Club, 2011

## PUBLISHED OPINIONS

- *City of Houston v. Maguire Oil Company*, 342 S.W.3d 726 (Tex. App.-Houston [14th Dist.] 20011, pet. denied).
- *Maguire Oil Company v. City of Houston*, 243 S.W.3d 714 (Tex. App.-Houston [14th Dist.] 2007, pet. denied).
- *Sterling Trust Company v. Adderley*, 168 S.W.3d 835, Blue Sky L. Rep. P 74, 547, 48 Tex. Sup. Ct. J. 887, Tex., June 17, 2005 (No. 03-1001).
- *In re Bass*, 113 S.W.3d 735, 46 Tex. Sup. Ct. J. 988, Tex., July 03, 2003 (No. 02-0071).
- *Maguire Oil Co. v. City of Houston*, 69 S.W.3d 350, 154 Oil & Gas Rep. 428, Tex.App.-Texarkana, February 15, 2002
- *El Paso Natural Gas Co. v. Leapartners, L.P.*, 2003 WL 21940729, Tex. App.-El Paso, August 14, 2003 (No. 08-01-00310-CV).
- *Citizens National Bank v. Allen Rae Investments*, 142 S.W.3d 459, Tex. App.-Fort Worth, July 15, 2004 (No. 2-02-095-CV).