

TEXAS COURT OF APPEALS, FOURTH DISTRICT, SAN ANTONIO

**Kent B. Hoffman, Susan Hoffman Binieck, E. Peter Hoffman Jr., and
Marni H. Cooney v. Andrew M. Thomson; CDG Peeler Family
Limited Partnership; Cynthia L. Littlefield; The Dick Family
Irrevocable Trust; Gordon G. Thomson; Jane Elizabeth Erzen;
Larry Wayne McCarty; Linda M. Ball; Michael David Dick; North
Thomson Oil and Gas LP; Patricia P. Fleming; Paul W. Peeler Family
Limited Partnership; Sandra Shannon Collins; Shannon Family
Trust; Thomson Oil & Gas Investments LP; Coconut Point ST, LLC;
Coconut Point OE, LLC; Colonial Villa Estates, LLC; Lazy Daze
KLA, LLC; Whispering Pines Mobile Home Park, Ltd., and R&H
Paul, Inc.**

No. 04-19-00771-CV · No. 04-19-00771-CV · Decided March 18, 2026

SUMMARY

The Texas Fourth Court of Appeals considers whether a 1956 oil and gas deed reserved a fixed 3/32 nonparticipating royalty interest or a floating 3/4 interest. Applying the presumption discussed in *Van Dyke v. Navigator Group*, the court concludes that the deed reserved a floating 3/4 royalty interest, reverses the trial court’s judgment, renders judgment for the Hoffmans, and remands for determination of costs and attorney’s fees.

CASE DETAILS

COURT	Texas Court of Appeals, Fourth District, San Antonio
WRITING FOR THE COURT	H. Todd McCray; Rebeca C. Martinez, Chief Justice; Adrian A. Spears II, Justice; H. Todd McCray, Justice
JURISDICTION	Texas Court of Appeals, Fourth Court, San Antonio
DECIDED	March 18, 2026
DOCKET	04-19-00771-CV
DISPOSITION	reversed_and_remanded

PROCEDURAL POSTURE	Appeal from competing summary-judgment rulings and a final judgment construing an oil-and-gas deed reservation as a fixed 3/32 nonparticipating royalty interest.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. When both parties move for summary judgment and the trial court grants one motion and denies the other, the appellate court reviews all summary-judgment evidence, determines all issues presented, and renders the judgment the trial court should have rendered. Whether an oil-and-gas deed is ambiguous and the construction of an unambiguous deed are questions of law reviewed de novo.
PRECEDENTIAL VALUE	published
PARTIES	Kent B. Hoffman, Susan Hoffman Binieck, E. Peter Hoffman Jr., Marni H. Cooney v. Andrew M. Thomson, CDG Peeler Family Limited Partnership, Cynthia L. Littlefield, The Dick Family Irrevocable Trust, Gordon G. Thomson, Jane Elizabeth Erzen, Larry Wayne McCarty, Linda M. Ball, Michael David Dick, North Thomson Oil and Gas LP, Patricia P. Fleming, Paul W. Peeler Family Limited Partnership, Sandra Shannon Collins, Shannon Family Trust, Thomson Oil & Gas Investments LP, Coconut Point ST, LLC, Coconut Point OE, LLC, Colonial Villa Estates, LLC, Lazy Daze KLA, LLC, Whispering Pines Mobile Home Park, Ltd., R&H Paul, Inc.

TOPICS

oil and gas

mineral rights

real estate

standard of review

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the 1956 deed's double-fraction language triggered the Van Dyke presumption that 1/8 was used as a term of art referring to the usual landowner's royalty rather than an arithmetic value.
2. Whether the nature of the reserved interest as a nonparticipating royalty, the deed's 1956 date, the repeated use of 3/32, an existing 1/10 royalty on other minerals, or the grantors' relinquishment of future bonus rights rebutted the Van Dyke presumption.
3. Whether the deed reserved a fixed 3/32 nonparticipating royalty interest or a floating 3/4 nonparticipating royalty interest.
4. Whether the trial court's judgment and attorney's-fee award should be reversed and what matters should be remanded.

HOLDINGS

1. The Van Dyke presumption applies when an oil-and-gas deed reserves a royalty interest using a double fraction involving $1/8$; the presumption is not limited to mineral-estate reservations or to instruments from a particular historical period.
2. The deed's text does not rebut the Van Dyke presumption. The references to the usual one-eighth royalty support, rather than defeat, the conclusion that $1/8$ was used as a placeholder for the landowner's royalty.
3. The 1956 deed reserved a floating three-fourths nonparticipating royalty interest, consisting of three-fourths of any royalty reserved in an oil, gas, or mineral lease affecting the property, rather than a fixed $3/32$ royalty interest.
4. The trial court's judgment must be reversed in its entirety, judgment must be rendered construing the deed as reserving a floating $3/4$ nonparticipating royalty interest, and the cause must be remanded for the trial court to determine costs and any reasonable and necessary attorney's fees.

KEY QUOTATIONS

"We reverse the trial court's judgment in its entirety; render judgment that the 1956 Deed reserved a floating three-fourths ($3/4$'s) nonparticipating royalty interest consisting of any royalty that may be reserved in any oil, gas, or mineral lease that may be executed; and remand this cause for the trial court to exercise its discretion in awarding costs and any reasonable and necessary attorney's fees." (at 20-21)

"This double fraction requires us to begin with a rebuttable presumption that the $1/8$ in this context was not an arithmetical value but was used as a placeholder for the standard royalty." (at 10)

"The lack of any text within the four corners of the deed that rebuts the presumption leads us to conclude that the grantors of the 1956 Deed did not use "three-fourths ($3/4$'s) of the usual one-eighth ($1/8$ th) royalty)" in its arithmetical sense but instead intended to reserve a floating three-fourths ($3/4$'s) interest in nonparticipating royalties in general." (at 20)

FACTUAL BACKGROUND

In a September 6, 1956 deed, Peter Hoffman and Marion B. Hoffman conveyed a 1,070-acre tract to Graves Peeler while reserving an interest in oil, gas, and other minerals. The deed described the reservation as an undivided $3/32$ interest, being three-fourths of the usual one-eighth royalty, and also used $3/32$ language in two additional clauses. After a dispute arose over royalty allocation under a lease, the parties disputed whether the reservation was a fixed $3/32$ royalty or a floating $3/4$ interest in the royalty provided by future leases.

PROCEDURAL HISTORY

After a lessee filed an interpleader petition concerning allocation of royalties, the Hoffmans sought declaratory relief construing the 1956 deed. The trial court granted the Peelers partial summary judgment and entered final judgment declaring a fixed $3/32$ nonparticipating royalty interest. The court of appeals initially construed the deed as reserving a floating $3/4$ royalty interest, but the Texas Supreme Court vacated that judgment and remanded for application of the framework announced in *Van Dyke v. Navigator Group*. On remand, the court of appeals again held that the deed reserved a floating $3/4$ royalty interest, reversed the judgment, rendered judgment on the deed construction, and remanded for costs and attorney's fees.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must determine and award, in its discretion, costs and any reasonable and necessary attorney's fees.

CASES CITED

- Graham v. Prochaska, 429 S.W.3d 650 (Tex. App.—San Antonio 2013, pet. denied)
- Delta Drilling Co. v. Simmons, 161 Tex. 122, 338 S.W.2d 143 (1960)
- Heritage Res., Inc. v. NationsBank, 939 S.W.2d 118 (Tex. 1996)
- Hoffman v. Thomson, 630 S.W.3d 427, 436 (Tex. App.—San Antonio 2021), vacated sub nom. Thomson v. Hoffman, 674 S.W.3d 927 (Tex. 2023)
- Thomson v. Hoffman, 674 S.W.3d 927 (Tex. 2023) (per curiam)
- Van Dyke v. Navigator Group, 668 S.W.3d 353 (Tex. 2023)
- U.S. Shale Energy II, LLC v. Laborde Properties, L.P., 551 S.W.3d 148, 152-54 (Tex. 2018)
- Hysaw v. Dawkins, 483 S.W.3d 1 (Tex. 2016)
- ConocoPhillips Co. v. Koopmann, 547 S.W.3d 858, 874 (Tex. 2018)
- Wenske v. Ealy, 521 S.W.3d 791, 794 (Tex. 2017)
- Luckel v. White, 819 S.W.2d 459, 461-64 (Tex. 1991)
- Lightning Oil Co. v. Anadarko E&P Onshore, LLC, 520 S.W.3d 39, 45 (Tex. 2017)
- Merriman v. XTO Energy, Inc., 407 S.W.3d 244, 248 (Tex. 2013)
- Karli v. Wilson, No. 08-24-00065-CV, 2025 WL 3039609, at *4, *13 (Tex. App.—El Paso Oct. 30, 2025, pet. filed)
- Concord Oil Co. v. Pennzoil Expl. & Prod. Co., 966 S.W.2d 451, 454-60 (Tex. 1998)
- Garrett v. Dils Co., 299 S.W.2d 904, 906-07 (Tex. 1957)
- Powder River Mineral Partners, LLC v. Cimarex Energy Co., No. 08-23-00058-CV, 2023 WL 8703418, at *6 (Tex. App.—El Paso Dec. 15, 2023, pet. denied) (mem. op.)
- Montgomery, Tr. of Tri-Mont Irrevocable Trusts v. ES3 Minerals, LLC, 697 S.W.3d 397, 403-05 (Tex. App.—El Paso 2024, no pet.)
- Bridges v. Uhl, 663 S.W.3d 252, 263 (Tex. App.—El Paso 2022, no pet.)
- Medina Interests, Ltd. v. Trial, 469 S.W.3d 619, 623-25 (Tex. App.—San Antonio 2015, pet. denied)
- Griffith v. Taylor, 291 S.W.2d 673, 676 (Tex. 1956)
- Boren Descendants & Royalty Owners v. Fasken Oil & Ranch, Ltd., 703 S.W.3d 874, 885-86 (Tex. App.—Eastland 2024, pet. filed)
- Royalty Asset Holdings II, LP v. Bayswater Fund III-A LLC, No. 08-22-00108-CV, 2023 WL 2533169, at *1, *4 (Tex. App.—El Paso Mar. 15, 2023, pet. denied)

- Leal v. Cuanto Antes Mejor LLC, No. 04-14-00694-CV, 2015 WL 3999034, at *3 (Tex. App.—San Antonio July 1, 2015, no pet.) (mem. op.)
- Range Res. Corp. v. Bradshaw, 266 S.W.3d 490, 495-96 (Tex. App.—Fort Worth 2008, pet. denied)
- Coghill v. Griffith, 358 S.W.3d 834, 839 (Tex. App.—Tyler 2012, pet. denied)
- Butler v. Horton, 447 S.W.3d 514, 519 (Tex. App.—Eastland 2014, no pet.)
- Sundance Minerals, L.P. v. Moore, 354 S.W.3d 507, 510, 512 (Tex. App.—Fort Worth 2011, pet. denied)
- Coates Energy Tr. v. Frost Nat. Bank, No. 04-11-00838-CV, 2012 WL 5984693, at *7 (Tex. App.—San Antonio Nov. 28, 2012, pet. denied) (mem. op.)
- BP Am. Prod. Co. v. Zaffirini, 419 S.W.3d 485, 497-98 (Tex. App.—San Antonio 2013, pet. denied)

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