



## Robert Sutphin, Jr.

Partner

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**Robert helps oil and gas producers favorably resolve their most challenging disputes, including royalty underpayment claims, all types of contract disputes, environmental issues, and class actions.**

Robert brings a deep understanding of New Mexico oil and gas law, including insight into issues and problems faced by energy companies. When litigating cases, clients appreciate his tenacity, responsiveness and creativity. This combination of skills and expertise results in consistently good outcomes for his clients.

He regularly litigates cases involving oil and gas royalties, severance and property taxes, marketing and valuation, allocation and gas balancing, and unit and joint operating agreements. In addition, he handles surface owner disputes, environmental matters, and claims under the Surface Owner's Protection Act.

For the last 20 years, Robert has been involved in almost every major royalty case involving New Mexico production. He was co-lead counsel in the seminal New Mexico case defining royalty owed to the State, which was decided in his clients' favor. Royalty class actions are a specialty: Robert and his team defeated class certification in two recent cases. His experience extends to representing clients in oil and gas disputes in other states, including Texas and Oklahoma.

Outside of litigation, he regularly advises clients on valuing oil and gas production to comply with private, state, and federal royalty obligations. In addition, he has deep experience with state tax issues, and valuing exported oil and gas.

### EXPERIENCE

#### Environmental and Natural Resources Litigation

- Commercial Litigation
- Oil and Gas Valuation and Taxes
- Royalty Underpayment Claims
- Environmental Disputes
- Operational Disputes
- Surface and Title Disputes
- Class Actions

### CLIENT RESULTS

### PRACTICES

Environmental and Natural Resources  
 Environmental and Natural Resources  
 Litigation  
 Commercial Litigation  
 American Indian Law

### INDUSTRIES

Energy and Resources  
 Oil and Gas

### EDUCATION

University of New Mexico, J.D., 2000  
*cum laude*

Austin College, B.A., 1994

### BAR ADMISSIONS

New Mexico

**Robert has significant litigation experience, in particular with class actions and oil and gas valuation, including:**

Defeated class certification of royalty underpayment claims on NGLs. *Abraham v. WPX Energy Production, LLC*, 317 F.R.D. 169 (D.N.M. 2016).

Defeated class certification of royalty underpayment claims on post-production costs, NGLs and downstream pricing. *Anderson Living Trust v. WPX Energy Production, LLC*, 306 F.R.D. 312 (D.N.M. 2015).

Representing federal lessee against Office Natural Resources and Revenue in federal court litigation involving federal royalties. *ConocoPhillips Co. v. ONRR*, Civ. No. 16-486 (D.N.M. 2016).

Won seminal case for producer/lessees involving meaning of oil and gas leases with the State of New Mexico. *ConocoPhillips Co. & Burlington Resources Oil & Gas Co., LP v. Lyons, Commissioner of Public Lands*, 299 P.3d 844 (2012).

Obtained favorable settlement for taxpayer involving valuation of natural gas processed in non-arm's length transaction. *ConocoPhillips v. New Mexico Taxation and Revenue Department*, D-101-CV-2013-01893, First Judicial District Court, Santa Fe, New Mexico.

Represented multiple natural gas producers in class action alleging existence and application of so-called Marketable Condition Rule under New Mexico law. *Davis v. Devon Energy Corp.*, 218 P.3d 75 (2009); *Ideal v. Burlington Resources Oil & Gas Co., LP*, 233 P.3d 362 (2010).

Obtained Tenth Circuit ruling in favor of natural gas producers in royalty underpayment claims, resulting in the leading Tenth Circuit case on New Mexico private royalties. *Elliott Industries, L.P. v. BP America Production Co., et al.*, 407 F.3d 1091 (10th Cir. 2005).

## **PUBLICATIONS**

"Owners or Operators: Two Distinct Paths to Parent Corporation Liability Under CERCLA – United States v. Bestfoods," *New Mexico Law Review*, 2000

## **SPEAKING ENGAGEMENTS**

"Reasonable Prudent Operator – The Continuously Evolving Standard," *Center for American and International Law, Institute for Energy Law, 72nd Annual Oil and Gas Law Conference, Panelist, 04/22/2021*

"Royalty Litigation Panel: Recent Trends and What's On the Horizon," *Institute for Energy Law, 68th Annual Oil & Gas Law Conference, Panelist, 02/16/2017*

## **RECOGNITION**

- *The Best Lawyers in America*®, Commercial Litigation, 2021, 2022

**PROFESSIONAL AND CIVIC AFFILIATIONS**

- State Bar of New Mexico, Member