CAUSE NO. 2018CVK002483D4

San Roman Ranch Mineral Partners, Ltd., *Plaintiffs*, *v.* Segundo Navarro Drilling, Ltd., *et al.*, *Defendants.*	IN THE DISTRICT COURT 406th JUDICIAL DISTRICT WEBB COUNTY, TEXAS

LEWIS DEFENDANTS' TRADITIONAL MOTION FOR SUMMARY JUDGMENT ON RELEASE AND CLAIM PRECLUSION

Defendants Segundo Navarro Drilling, Ltd., Lewis Petro Properties, Inc., and Tercero Navarro, Inc. (collectively, "Lewis") respectfully submit this Traditional Motion for Summary Judgment on release and claim preclusion.

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FACTS

Nearly a decade ago, here in Webb County, San Roman sued Lewis for violations of the same three mineral leases at issue in this case.[1] After years of

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1 Cause No. 2014-CV-F000167D2, *San Roman Ranch Mineral Partners, Ltd. v. Segundo Navarro Drilling, Ltd.*, in the District Court, 111th Judicial District, Webb County, Texas.

hard-fought litigation, the parties spent many months and late nights brokering a settlement—the terms of which included a broad, all-encompassing release of any claims the parties could have asserted against one another as of December 31, 2016.[2] The slate was to be wiped clean, as heralded in the opening recitals to the settlement agreement:

> [T]he Settling Parties wish to forever compromise and settle the Lawsuit, and all other issues and claims, known and unknown, between or among them that have been asserted or that could have been asserted, whether or not arising from, or related to, the Leases, the Limited Amendments, and the Lawsuit.[3]

The agreement's release language reflected the sheer scope and breadth of the settlement:[4]

① San Roman and Lewis released "one another from any and all claims, causes of action, damages, suits, debts, sums of money, accounts, judgments, executions, claims, and demands,"

② Regardless of their "kind, description, or nature (in law or in equity)," and

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2 EXHIBIT 9 at 7–8, ¶¶ 5–6.

3 *Id.* at 4.

4 *Id.* at 7–8, ¶ 6.

③ Whether "based on federal, state, local, statutory, or common law, or any other law, rule, or regulation, known or unknown."

④ Moreover, the parties were forever compromising not just the claims that they had "presently" asserted, but also any claims that they "could have asserted."

⑤ Thus, although the release expressly reached all claims that were or could have been brought "in connection with the subject matter of this Lawsuit, the Leases, or the Limited Amendment thereto," the release was not limited to any specific, enumerated items.

⑥ Finally, even if the parties had "unknown" claims, those would be released, too—"regardless of whether any unknown claims or causes of action would have materially affected the parties' settlement with one another."

In exchange for this sweeping release of its claims against Lewis, San Roman was paid handsomely: $5 million in cash. Additionally, Lewis surrendered thousands of acres from the leases, which San Roman subsequently leased to other operators for millions of dollars more in upfront bonus money.

[*continued* …]

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Seismic data was actively litigated in the earlier lawsuit. San Roman's written discovery, for example, included a series of requests for production that targeted seismic data in particular:[5]

① "Any and all documents identifying, recording and/or reflecting seismic surveys, seismic operations and seismic lines on the Subject Lands."

② "Any and all documents relating to seismic surveys, seismic operations and seismic lines on the Subject Lands."

③ "Any and all subsurface maps, geophysical maps, including but not limited to geological maps, structural maps, seismic maps, seismic structure maps, productive limit maps, gross isopach maps, net pay maps or fault plain maps relating to the Subject Lands."

④ "Any and all documents relating to payments or payment requests for any seismic operations on the Subject Lands."

Five years later, in the case at bar, San Roman served virtually identical requests for production:[6]

5 EXHIBIT 10 at Request Nos. 61, 62, 65, and 73.

6 EXHIBIT 11 at Request Nos. 34, 35, 36, and 37.

① "Any and all documents identifying, recording and/or reflecting seismic surveys, seismic operations and seismic lines on the property described in the Lease(s)."

② "Any and all documents relating to seismic surveys, seismic operations and seismic lines on the property described in the Lease(s)."

③ "Any and all subsurface maps and geophysical maps, including but not limited to geological maps, structural maps, seismic maps, seismic structure maps, productive limit maps, gross isopach maps, net pay maps or fault plain maps relating to the property described in the Lease(s)."

④ "Any and all documents relating to payments or payment requests for any seismic operations on the property described in the Lease(s)."

The same lawyers drafted the discovery for San Roman in both matters. Translation: San Roman made superficial changes to the mothballed requests from the first lawsuit and, then, served them again in this case.

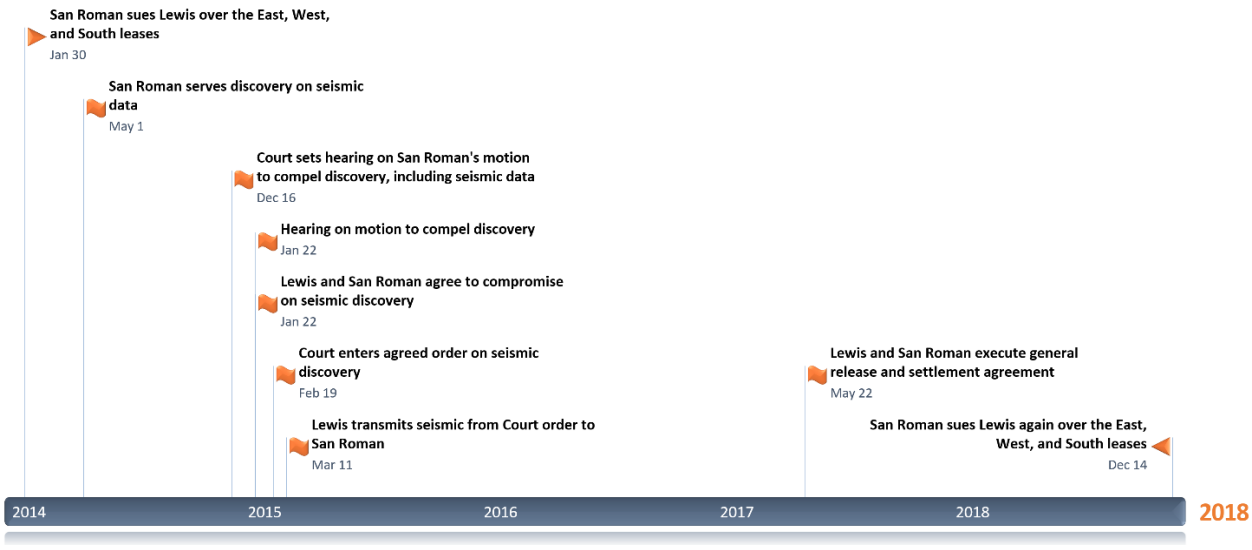
The document requests from the earlier action were hotly contested, so much so that they became the subjects of a motion to compel filed by San Roman. On the steps of the courthouse, the parties reached a compromise, which they announced on the record at a hearing held before Judge Notzon on January 22, 2015.[7] The

7 EXHIBIT 12 at 41:14–24.

compromise was reduced to an agreed order, which was subsequently entered by the Court on February 19, 2015.[8]

Lewis proceeded to gather the seismic-related materials identified in the Court's order. These documents were then transmitted to San Roman's counsel of record, which is reflected in e-mail correspondence from Lewis's attorneys, dated March 11, 2015.[9] By this point, the seismic—from both Global and Dawson—was already many years old.[10]

To put all of this into perspective, on a timeline:



8 EXHIBIT 13 at 7, ¶ 11.

9 EXHIBIT 14 at 1–2.

10 San Roman's corporate representative has already conceded as much. EXHIBIT 2 at 8:12–17.

It was beyond the pale for San Roman to drag Lewis back to court over an alleged failure to provide seismic data: this was an explicit topic of prior litigation, and the current claims are squarely within the general release that Lewis obtained through a multimillion-dollar payment to San Roman.

Accordingly, judgment should enter against San Roman on all of its claims for the purported nondisclosure of the Global and Dawson seismic data, and for any related requests for an award of damages, including but not limited to those described in San Roman's live disclosures.

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ARGUMENT

I. Summary judgment standard.

Lewis has the burden to prove that there is "no genuine issue as to any material fact and that [it] is entitled to judgment as a matter of law." TEX. R. CIV. P. 166a(c); *Gillespie v. Hernden*, 516 S.W.3d 541, 545 (Tex. App.—San Antonio 2016, pet. denied) (citing *Nixon v. Mr. Prop. Mgmt. Co.*, 690 S.W.2d 546, 548 (Tex. 1985)). Lewis may carry this burden "by either conclusively negating a single essential element of the plaintiff's cause of action or establishing an affirmative defense." *Teal Trading & Dev., LP v. Champee Springs Ranches Prop. Owners Ass'n*, 534 S.W.3d 558, 573 (Tex.

App.—San Antonio 2017) (citing *Frost Nat'l Bank v. Fernandez*, 315 S.W.3d 494, 508–09 (Tex. 2010)).

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II. San Roman released its claims for the alleged nondisclosure of the Global seismic, as well as the Dawson seismic covering the "Deep Unleased Depths."

It is well settled that a "release surrenders legal rights or obligations between the parties pursuant to an agreement." *Headington Royalty, Inc. v. Finley Res., Inc.*, 623 S.W.3d 480, 490 (Tex. App.—Dallas 2021) (citing *Dresser Indus., Inc. v. Page Petroleum, Inc.*, 853 S.W.2d 505, 508 (Tex. 1993)).[11] To be clear, a "release operates to extinguish or forfeit a party's claim or claims as effectively as would a prior judgment between the parties and is a bar to any right of action on the released matter." *Id.* (same).

"A release, valid on its face, is, until set aside, a complete bar to any action based on matters covered in the release." *Shanley v. First Horizon Home Loan Corp.*, No. 14-07-01023-CV, 2009 WL 4573582, at *9 (Tex. App.—Houston [14th Dist.]

11 *Reh'g denied* (May 21, 2021), *review granted* (Sept. 2, 2022), *aff'd*, No. 21-0509, 2023 WL 3399104 (Tex. May 12, 2023), *reh'g denied* (Sept. 1, 2023).

Dec. 8, 2009, no pet.) (citing *McMahan v. Greenwood*, 108 S.W.3d 467, 478 (Tex. App.—Houston [14th Dist.] 2003, no pet.); *Deer Creek Ltd. v. North Am. Mortgage Co.*, 792 S.W.2d 198, 201 (Tex. App.—Dallas 1990, no writ)). "In a summary judgment context, once a release is properly pleaded, the burden shifts to the other party to offer proof that the release should be set aside." *Id.* (citing *Sweeney v. Taco Bell, Inc.*, 824 S.W.2d 289, 291 (Tex. App.—Fort Worth 1992, writ denied).

Lewis has pleaded the affirmative defense of release. Thus, the burden shifts to San Roman to prove that the release should be set aside. Because San Roman executed a general release—that compromised all claims, "of whatever kind," even if they were "unknown," and regardless of whether they even relate to the mineral leases—it is inconceivable that San Roman can carry its burden.[12]

In *Keck, Mahin & Cate v. National Union Fire Ins. Co.*, the Texas Supreme Court considered a release that was "not expressly limited to a specific claim or transaction," but rather one that "cover[ed] 'all demands, claims or causes of action

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12 In the earlier case, San Roman stood behind a team of lawyers from one of the State's leading law firms specializing in the representation of mineral owners. Furthermore, the settlement and general release were both crafted with the input and oversight of the Honorable Raul Vasquez, who previously presided over the 111th District Court in Laredo.

of any kind whatsoever.'" 20 S.W.3d 692, 697 (Tex. 2000). Our high court was clear that nothing "forbids such a broad-form release." *Id.* In *Shanley*, the Houston Court of Appeals drew parallels to *Keck*, explaining that "the release here is not expressly limited to a specific claim or transaction but purports to cover 'all possible claims and causes of action of every kind and character.'" 2009 WL 4573582, at *10–*11.

The *Shanley* Court, citing the expansiveness of the release, affirmed summary judgment against the plaintiff on all of his claims. *Id.* The result should be the same for San Roman. *See also Mendez v. Allstate Prop. & Cas. Ins. Co.*, 231 S.W.3d 581, 583 (Tex. App.—Dallas 2007, no pet.) (affirming summary judgment in favor of a defendant that had raised a general release as a total bar to recovery).

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III. Claim preclusion is an independent bar to San Roman's nondisclosure allegations.

"Claim preclusion prevents the relitigation of a claim or cause of action that has been finally adjudicated, as well as related matters that, with the use of diligence, should have been litigated in the prior suit." *Morris v. Landoll Corp.*, 856 S.W.2d 265, 267–68 (Tex. App.—Fort Worth 1993, writ denied). Subsumed under the broader principles of res judicata, claim preclusion "prevents splitting a cause of action." *Id.*

The theory "is not limited to matters actually litigated in the prior suit, but also precludes causes of action or defenses that arise out of the same subject matter and which might have been litigated in the prior suit." *Kothmann v. Cook*, 113 S.W.3d 471, 474 (Tex. App.—Amarillo 2003, no pet.).

There are compelling policy reasons "behind the doctrine, [which] reflect the need to bring all litigation to an end, prevent vexatious litigation, maintain stability of court decisions, promote judicial economy, and prevent double recovery." *Morris*, 856 S.W.2d at 267–68. As the Texas Supreme Court has taught, claim preclusion "advance[s] the interest[s] of the litigants (who must pay for each suit), the courts (who must try each suit), and the public (who must provide jurors and administration for each suit)." *Hallco Tex., Inc. v. McMullen County*, 221 S.W.3d 50, 58 (Tex. 2006) (quoting *Schneider Nat'l Carriers, Inc., v. Bates*, 147 S.W.3d 264, 278 (Tex. 2004)) (alterations in original).

In the earlier lawsuit, San Roman sued Lewis for violations of the same leases under which it has now sued a second time. What is more, the subject matter that San Roman complains of today—seismic data—was the object of disputed motion practice in the first case, and was also a topic of discovery that required court

intervention, including the issuance of a lengthy agreed order negotiated by sophisticated counsel for San Roman.

Under these circumstances, where seismic data played an explicit role in the earlier proceedings—including during disputed discovery and contested motion practice—San Roman could have easily litigated its current complaints in the prior suit. For this independently sufficient reason, judgment should enter against San Roman's claims for the alleged nondisclosure of the Global and Dawson seismic data.

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CONCLUSION

Lewis respectfully requests that the Court grant this motion in full and render judgment against San Roman on all of its claims for the purported nondisclosure of the Global and Dawson seismic data, and for any related requests for an award of damages, including but not limited to those described in San Roman's live disclosures.

DATED: September 12, 2023

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CERTIFICATE OF SERVICE

I certify that on September 12, 2023, I served the foregoing instrument on all counsel of record by e-service.

THOMAS G. CIARLONE, JR.