



Control of Well

Who Is In Control?

A Lawyer's Perspective

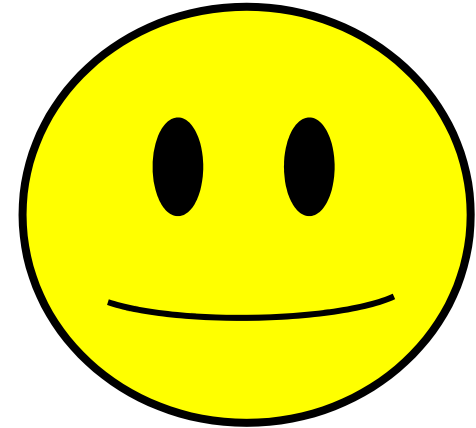
*Presented by Harold K. Watson,
Locke Lord Bissell & Liddell LLP*

LLB&L
Locke Lord Bissell & Liddell LLP

Is the glass half full or half empty?



Broker



Underwriter



Claims Adjuster



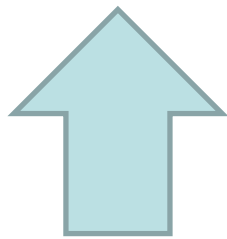
Lawyer

An Historical Perspective on Who Controls the Process

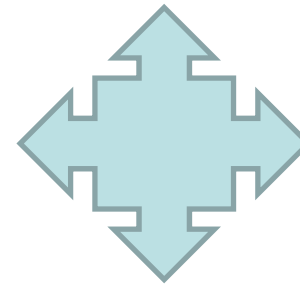


Georgia Home Insurance Company v. Means (1951)

Sudden expulsion of drilling fluid (mud, water and sometimes oil) followed by an uncontrolled flow of oil, gas or water from an uncompleted well that occurs when:



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**the pressure of oil, gas
or water entering the
hole at some depth**

**the pressure exerted
by column of drilling
fluid in the well.**

Fidelity-Phoenix Fire Insurance Company of New York v. Dyer (1955)

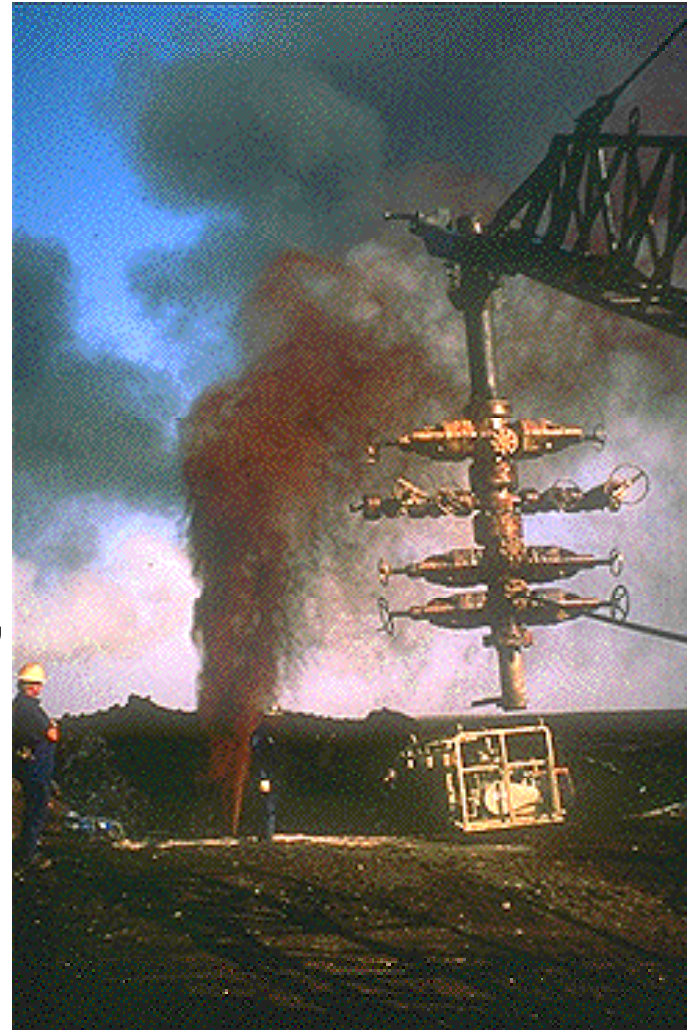
The term “blowout” shall be defined as a sudden expulsion of drilling fluid *not excluded otherwise by this policy*, followed by an uncontrolled flow of oil, gas or water from the well that occurs when the pressure entering the well at some depth below the surface is greater than the pressure exerted by the column of drilling fluid in the well, *resulting in the complete lack of control of the well or drilling operation....*

It is understood and agreed that a “kick” as commonly referred to in the drilling of a well which may result in a drilling stem being stuck shall not be deemed a blowout unless such “kick” is immediately followed by a blowout as above described.

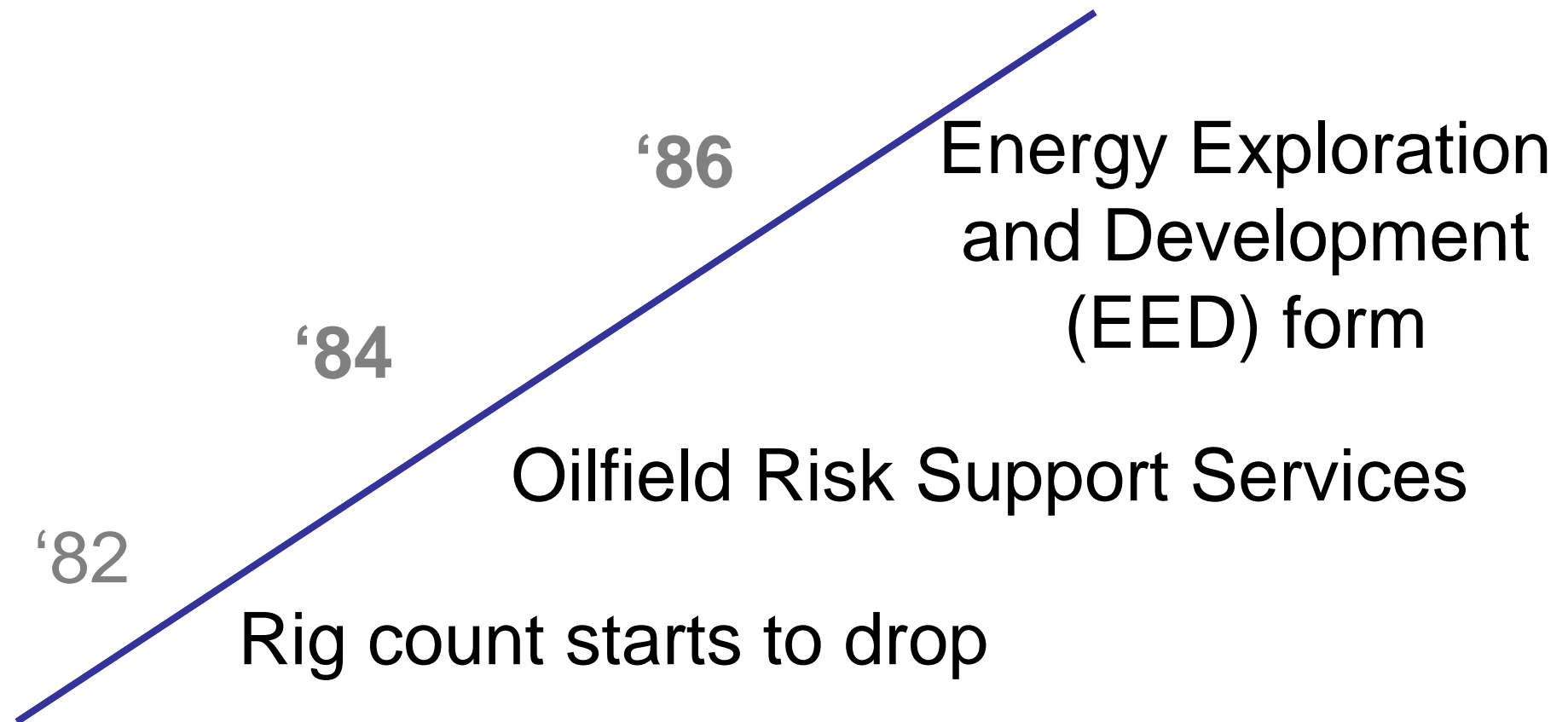
Sutton Drilling Company v. Universal Insurance Company (1964)

“Uncontrollable” flow =

one “rendering the use of
any Blowout Preventer
equipment customarily used,
inoperative or ineffective.”



The 1980's: A decade of Change



Lessons of History



Hard Market

Soft Market

Judicial Attitudes

The Present

The Legal Doctrines that Affect the Parties' Intentions

“Underwriting Intent”

Contra Proferentem



Making Wells Safe, Contra Proferentem and Underwriting Intent

The actual costs and expenses incurred in preventing the occurrence of a loss insured hereunder when the drilling and/or workover and/or production equipment has been directly lost or damage by....windstorm...; but only when, in accordance with all regulations, requirements and normal and customary practices in the industry, it is necessary to re-enter the original well(s) in order to continue operations or restore production from or plug and abandon such well(s).

“preventing the occurrence of a loss insured hereunder”

“in accordance with all regulations, requirements and normal and customary practices in the industry, it is necessary to re-enter the original well(s) in order to...plug and abandon such well(s).”

Making Wells Safe and Brokers' Wordings

[E]xpenses incurred in making wells safe when a well is not out of control but the equipment and/or structure . . . has been lost and/or damaged . . . and provided the Assured deems it necessary to re-enter the original well(s) in accordance with accepted oil field practice in order to restore production or to plug and abandon

Underwriters liability for costs and expense incurred by reason of this endorsement shall cease at the time that:

- (1) Operations or production can be safely resumed, or
- (2) The well is safely plugged and abandoned, whichever shall first occur.

Broker's Endorsement

EED

“actual costs and expenses”

“preventing a loss insured
hereunder”

“in accordance with all regulations
etc.”

“the well is or can be safely P&A'd

Broker's wording

“expenses”

“making wells safe”

“when the Assured deems it
necessary”

“the well is safely P&A'd

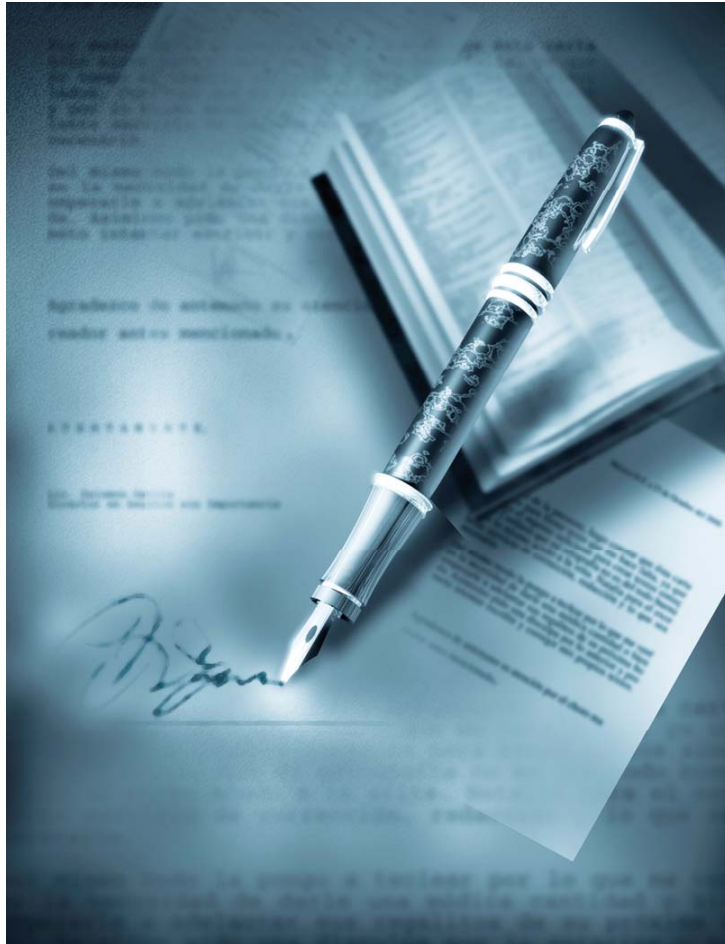
Warranties and Conditions

“It is a further condition precedent to coverage being provided that all recommendations of Cudd Pressure Control *be complied with or by for the Named Assured to be advised.*”



The Future

Regaining Control



Remember: Wordings matter!

When possible, specify the wording

Choose ad hoc language carefully

Require brokers to show changes from established wordings

