

June 15, 2015

An ALM Publication

TEXAS

DALLAS COUNTY

EMPLOYMENT

Gross Negligence

Landman said she was underpaid her share of revenue

Amount **\$0**

CASE Cherene Jackson Patty v.
Christopher Dedmon, SDC
Montana Consulting, LLC, and
U.S. Encercorp, Ltd.,
No. DC-13-03220-H

COURT Dallas County District Court,
160th, TX

DATE 6/15/2015

JUDGE Jim Jordan

PLAINTIFF

ATTORNEY(S) Douglas C. Kittelson; ; Dallas
TX for Cherene Jackson Patty
Patrick R. Kelly; Law Offices
of Patrick R. Kelly; Dallas TX
for Cherene Jackson Patty

DEFENSE

ATTORNEY(S) Daniel Lanfear; The Lanfear
Law Firm; San Antonio, TX
for SDC Montana Consulting
LLC, Christopher Dedmon

Corey Wehmeyer; Santoyo Moore
Wehmeyer P.C.; San Antonio,
TX for U.S. Encercorp Ltd., Bruce
Gates
Benjamin Robertson; Santoyo
Moore Wehmeyer P.C.; San
Antonio, TX for U.S. Encercorp
Ltd., Bruce Gates

FACTS & ALLEGATIONS On July 20, 2011, plaintiff Cherene Jackson Patty, an independent oil and gas landman, entered into an Independent Contractor Engagement Agreement with SDC Montana Consulting LLC, Peoria, Ariz., a company in the business of acquiring and selling mineral interests. The contract included a revenue-sharing provision requiring SDC to pay Patty 1.5 percent of all gross revenues paid or payable to SDC.

On April 12, 2012, this agreement was replaced by a similar agreement between Patty, SDC and U.S. Encercorp Ltd., San Antonio, an oil and gas production and exploration company. U.S. Encercorp's contractual role included administering the revenue-sharing payments.

SDC's managing partner was Christopher Dedmon, and U.S. Enercorp's president was Bruce Gates. A bitter dispute arose between Patty and them over the revenue-sharing payments. SDC and U.S. Enercorp terminated the agreement in December 2012 or January 2013.

Patty sued Dedmon, SDC and U.S. Enercorp for breach of contract, fraud, violation of the Texas Uniform Fraudulent Transfer Act, quantum meruit, breach of fiduciary duty, conspiracy, conversion and declaratory judgment. She later added Gates as a defendant.

The claims against Gates and Dedmon were dismissed before trial.

The only cause of action that went to the jury was breach of the revenue-sharing provision by the corporate defendants. The other claims against the corporate defendants were dismissed on summary judgment.

Patty claimed that she procured multiple Montana oil and gas leases for SDC and U.S. Enercorp; that the defendants failed to disclose certain deductions from these leases' gross revenue; and that the defendants therefore underpaid her share of gross revenue.

The defense denied the allegations and contended that Patty was overpaid. According to the defendants, she calculated her share on revenue that was paid in part to other companies, not SDC or U.S. Enercorp or their affiliates, and this revenue had nothing to

do with the leases she procured. The defense further argued that Patty was calculating her share on dollars that were not gross revenue.

The defense further argued that its failure to comply, if any, was a result of a mistake in its interpretation of the agreement.

INJURY Patty sought \$185,000 in unpaid revenue-sharing and about \$250,000 in attorney fees through trial.

She also sought a finding that the defendants' breach resulted from gross negligence or willful misconduct, as a predicate for punitive damages.

U.S. Enercorp sought about \$450,000 in attorney fees through trial, and SDC sought \$99,751 in attorney fees through trial.

RESULT The jury found no breach of contract by either corporate defendant and did not reach the questions on mistake, gross negligence/willful misconduct, damages or Patty's attorney fees.

The jury answered the question on the defendants' attorney fees and awarded zero.

EDITOR'S NOTE This report is based on information that was provided by plaintiff's and U.S. Enercorp's counsel. SDC's counsel did not respond to the reporter's phone calls.