

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

SCHOOL BOARD OF THE PARISH
OF ST. CHARLES

CIVIL ACTION

VERSUS

NO: 04-2511

SHELL OIL COMPANY, ET AL

SECTION: "J" (1)

ORDER AND REASONS

Before the Court is the Lemmon Law Firm's **Appeal and Objection to Magistrate Judge's Ruling on Motion for Leave to Intervene (Rec. Doc. 268)**. This motion, which is opposed, is set for hearing on April 15, 2009 with oral argument. Upon review of the record, the memoranda of counsel, and the applicable law, this Court now finds that oral argument should be cancelled and the appeal and objection denied.

The Lemmon Law Firm filed a motion for leave to intervene in this matter on June 30, 2008. The Lemmon Law Firm sought intervention pursuant to Federal Rule of Civil Procedure 24 to protect the firm's claimed interest in attorney's fees and costs. At the time the motion for leave was filed, the Judgment entered by this Court on April 14, 2008 was on appeal to the Fifth Circuit.

On December 3, 2008 Magistrate Judge Shushan denied the Lemmon Law Firm's motion for leave to intervene concluding that the court lacked jurisdiction to consider the motion for leave to intervene while the appeal was pending before the Fifth Circuit. Subsequently, the Lemmon Law Firm filed this appeal and objection to the denial of the motion for leave, which was set for hearing on April 15, 2009. While the appeal and objection has been pending the parties to the appeal before the Fifth Circuit settled their remaining issues. Pursuant to a joint motion of the parties the appeal was dismissed by the Fifth Circuit. As a result of the dismissal of the appeal this case has been closed and is no longer pending. Since this case is now closed there is no longer an active matter in which the Lemmon Law Firm might be permitted to intervene.¹ Accordingly,

IT IS ORDERED that the Lemmon Law Firm's **Appeal and Objection to Magistrate Judge's Ruling on Motion for Leave to Intervene (Rec. Doc. 268)** is hereby **DENIED**.

IT IS FURTHER ORDERED that the oral argument set for this motion on Wednesday, April 15, 2009 is **CANCELLED**.

¹The denial of this motion does not preclude the Lemmon Law Firm from pursuing a claim for attorney's fees and costs in state court.

New Orleans, Louisiana, this 13th day of April, 2009.



CARL J. BARBIER
UNITED STATES DISTRICT JUDGE