

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**MICHAEL LANCON**

**CIVIL ACTION**

**VERSUS**

**NO. 11-1899**

**SETTOON CONSTRUCTION, INC. CPT.  
O.T. MOBIELY, JOHN W. STONE OIL  
DISTRIBUTOR, L.L.C., ABC  
INSURANCE CO. AND XYZ INSURANCE  
COMPANY**

**SECTION I**

**ORDER**

Before the Court is a motion<sup>1</sup> to dismiss filed by defendant, John W. Stone Oil Distributor, L.L.C. (“Stone Oil”). Plaintiff, Michael Lancon (“Lancon”), has filed an opposition.<sup>2</sup> Having considered the arguments of counsel, the Court finds that plaintiff has sufficiently stated a claim for relief against Stone Oil based on its alleged failure to provide a reasonably safe dock. *See Florida Fuels, Inc. v. Citgo Petroleum Corp.*, 6 F.3d 330 (5th Cir. 1993). Discovery will reveal the extent and nature of Stone Oil’s responsibility, if any, for its alleged failure to assist Lancon in loading the five-gallon buckets and/or its alleged failure to ensure that the vessel was properly docked for loading oil.

Accordingly,

**IT IS ORDERED** that Stone Oil’s motion<sup>3</sup> to dismiss is **DENIED** without prejudice to the right to reurge its arguments upon proper motion for summary judgment.

---

<sup>1</sup> R. Doc. No. 15.

<sup>2</sup> R. Doc. No. 17.

<sup>3</sup> R. Doc. No. 15.

**IT IS FURTHER ORDERED** that Stone Oil's motion<sup>4</sup> to dismiss Lancon's original complaint is **DISMISSED AS MOOT**.

New Orleans, Louisiana, November 7, 2011.

A handwritten signature in black ink, appearing to read "Lance Africk", written over a horizontal line.

**LANCE M. AFRICK**  
**UNITED STATES DISTRICT JUDGE**

---

<sup>4</sup> R. Doc. No. 8.