

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

**SHELL OFFSHORE, INC.**

**CIVIL DOCKET**

**VERSUS**

**NO. 16-15537**

**ENI PETROLEUM US LLC, ET AL**

**SECTION: "E"(2)**

**ORDER**

Before the Court is Plaintiff Shell Offshore, Inc.'s ("Shell") motion for partial summary judgment.<sup>1</sup> Shell seeks summary judgment as to Defendant Eni Petroleum US LLC's ("Eni") counterclaim, asserting that Eni has failed to come forth with evidence or testimony to establish the existence of any element essential to its counterclaim.<sup>2</sup> The motion is opposed.<sup>3</sup> Eni has withdrawn Count 2 of the counterclaim; Shell's motion for partial summary judgment is moot with respect to Count 2.<sup>4</sup>

The Court denied Shell's previous motion for summary judgment, finding that (1) the Unit Operating Agreement ("UOA") is ambiguous, (2) the trier of fact must determine the intent of the parties, and (3) numerous disputes of material fact exist.<sup>5</sup> Shell now seeks a partial summary judgment on Eni's counterclaim that Shell breached the UOA in bad faith and committed willful misconduct.<sup>6</sup>

The Court already has found the UOA ambiguous, and that the trier of fact will have to determine the intent of the parties. The determination of the counterclaim will require findings of fact as to the actions of Shell and the circumstances leading to those

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<sup>1</sup> R. Doc. 198.

<sup>2</sup> R. Doc. 198-1 at 1.

<sup>3</sup> R. Doc. 220.

<sup>4</sup> R. Doc. 220.

<sup>5</sup> R. Doc. 160, 161.

<sup>6</sup> R. Doc. 32.

actions. The court cannot resolve factual disputes on a motion for summary judgment, and it is beyond question that “bad faith” is a question of fact.

Simply put, there are numerous issues of material fact that preclude summary judgment in favor of Shell on Count 1 of Eni’s counterclaim.

**IT IS ORDERED** that Plaintiff Shell Offshore, Inc.’s motion for partial summary judgment<sup>7</sup> is **HEREBY DENIED**.

**New Orleans, Louisiana, this 12th day of February, 2018.**

  
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**SUSIE MORGAN**  
**UNITED STATES DISTRICT JUDGE**

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<sup>7</sup> R. Doc. 198.