

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

FLORIDA GAS TRANSMISSION  
COMPANY, LLC

NO. 2015 CW 1211

VERSUS

TEXAS BRINE COMPANY, LLC, ET  
AL

**DEC 17 2015**

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In Re: Occidental Chemical Corporation, applying for  
supervisory writs, 23rd Judicial District Court,  
Parish of Assumption, No. 34316.

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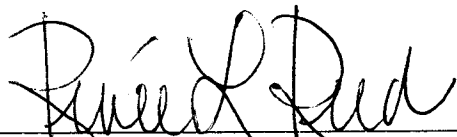
**BEFORE: PETTIGREW, McDONALD, McCLENDON, HIGGINBOTHAM AND  
THERIOT, JJ.**

**WRIT DENIED.**

**MRT  
JTP  
TMH**

**McDonald and McClendon, JJ.**, dissent and would grant the writ and reverse the trial court's July 10, 2015 judgment overruling the exception of arbitration, filed by relator, Occidental Chemical Corporation, and would render judgment sustaining the exception. Furthermore, we would reverse the trial court's July 10, 2015 judgment denying the relator's motion for a stay of proceedings in the district court, pending arbitration, and render judgment granting a stay of the district court proceedings pertaining to the delictual claims filed by Texas Brine Company, LLC, against Occidental Chemical Corporation, in connection with Hooker #1 Well, pending arbitration of these claims. Pursuant to Rule 7 (a) of the American Arbitration Association (AAA) Commercial Rules, the arbitrator shall rule on the existence, scope, or validity of the arbitration agreement, as well as the arbitrability of any claim or counterclaim. Rule 1 of the AAA Commercial Rules provides that the parties shall be deemed to have made the AAA Commercial Rules a part of their arbitration agreement whenever they have provided for arbitration "by the American Arbitration Association under its Commercial Arbitration Rules." The Arbitration Clause in the Operating Agreement in this case contains a statement that provides, in pertinent part, "The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association." Accordingly, Rule 7 (a) is applicable in this instance and requires that the question of the arbitrability of the delictual claims filed by Texas Brine Company, LLC against Occidental Chemical Corporation must be submitted to arbitration. See **Jasper Contractors, Inc. v. E-CLAIM.COM, LLC**, 2011-0978 (La. App. 1st Cir. 5/4/12), 94 So.3d 123.

COURT OF APPEAL, FIRST CIRCUIT

  
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DEPUTY CLERK OF COURT  
FOR THE COURT