

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2018 CA 0999

PONTCHARTRAIN NATURAL GAS SYSTEM,  
K/D/S PROMIX, L.L.C., AND ACADIAN GAS PIPELINE SYSTEM

VERSUS

TEXAS BRINE COMPANY, LLC

Judgment Rendered: NOV 15 2019

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On Appeal from the  
Twenty-Third Judicial District Court  
In and for the Parish of Assumption  
State of Louisiana  
Docket No. 34,265

Honorable Thomas J. Kliebert, Jr., Judge Presiding

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BEFORE: HIGGINBOTHAM,<sup>1</sup> PENZATO, AND LANIER, JJ.

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<sup>1</sup> Judge Toni Manning Higginbotham was not present at the oral argument of this case; however, she participated in deliberations via a recording of the hearing.

## **PENZATO, J.**

Texas Brine Company, LLC, appeals a judgment dismissing its claims against Steadfast Insurance Company, AIG Specialty Insurance Company, Lexington Insurance Company, and National Union Fire Insurance Company of Pittsburgh, Pa., in their respective capacities as insurers of Adams Resources Exploration Company<sup>2</sup> (collectively “Adams Resources’ insurers”), on a motion for involuntary dismissal. For the reasons that follow, we affirm.

### **FACTS AND PROCEDURAL HISTORY**

The underlying litigation in this matter involves the sinkhole in Assumption Parish that resulted when the site of a former brine cavern, known as the Oxy Geismar No. 3 well (OG3) collapsed. Numerous plaintiffs filed suit against several defendants, including Texas Brine, for damages to their property. Texas Brine drilled a brine well known as OG3 on land owned by Occidental Chemical Corporation (Oxy) in 1982. In 1983, Oxy leased a portion of the land to Colorado Crude Company (Colorado Crude Lease) for the purpose of drilling an oil well thereon. In 1986, Adams Resources, an assignee of the Colorado Crude Lease, drilled an oil and gas well on the property that became known as Adams-Hooker No. 1 well (AH1 well).<sup>3</sup> In May 1986, before any actual production from the AH1 well, Adams Resources assigned its operating interest in the well to HECI Exploration Company, LLC. The AH1 well produced until it was permanently shut-in in 2001, approximately 11 years before the development of the sinkhole on or about August 3, 2012.

Various plaintiffs filed suit against Texas Brine and other defendants for alleged damages arising from the sinkhole. Texas Brine asserted third-party

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<sup>2</sup> Adams Resources filed bankruptcy in 2017 and did not participate in the trial. *See In Re Adams Resources Exploration Corporation*, 17-10866 (Bankr. D. Del. 5/24/17), 2017 WL 5479425. The bankruptcy stay was lifted to allow the claims against Adams Resources’ insurers, which were not released by the bankruptcy, to proceed. *See* La. R.S. 22:1269(A) and (B).

<sup>3</sup> Hooker Chemical & Plastics Corp. was the predecessor in interest to Oxy.

demands against Adams Resources and its insurers, pursuant to the Louisiana Direct Action Statute, La R.S. 22:1269. On October 9, 2017, at the close of Texas Brine's case on the bifurcated liability trial, the Adams Resources' insurers moved for an involuntary dismissal, which the district court originally deferred. On November 11, 2017, the district court granted the involuntary dismissal and signed a judgment in accordance therewith. It is from this judgment that Texas Brine appeals.

### LAW AND DISCUSSION

The issue before this court has been addressed previously by different panels. In *Pontchartrain Natural Gas System v. Texas Brine Company, LLC*, 2018-0631 (La. App. 1st Cir. 7/3/19), \_\_\_ So. 3d \_\_\_, \_\_\_, 2019 WL 2865136, p. 6, this court recently affirmed the district court's involuntary dismissal of Texas Brine's claims against Browning Oil Company, Inc. Similar to the present case, Texas Brine argued that the depressurization of the AH1 well contributed to the collapse of the OG3 cavern and the formation of the sinkhole. This court concluded that based on the totality of the evidence, "Browning's operations played absolutely no role in any of the causative factors for the development of the sinkhole and the damage that resulted." *Pontchartrain Natural Gas System*, \_\_\_ So. 3d at \_\_\_, 2019 WL 2865136, p. 5.

The same issue currently before this court was also heard in *Florida Gas Transmission Company, LLC v. Texas Brine Company, LLC*, 2018-0907 (La. App. 1st Cir. 8/29/19), \_\_\_ So. 3d \_\_\_, 2019 WL 4073383, concerning whether the record reasonably supported that Adams Resources' operations were not a causative factor for the development of the sinkhole and the resulting damages. The court in *Florida Gas* affirmed the November 11, 2017 district court judgment dismissing Texas Brine's claims against Adams Resources' insurers. *Florida Gas*, \_\_\_ So. 3d at \_\_\_, 2019 WL 4073383, p. 4.

Furthermore, the same arguments made in the present case, were presented by Texas Brine in *Crosstex Energy Services, LP v. Texas Brine Company, LLC*, 2018-1122 (9/16/19), 2019 WL 4409140. Given that the evidence in *Crosstex Energy Services* was based on the same evidence considered in *Florida Gas, supra*, this court affirmed the November 11, 2017 district court judgment dismissing the Adams Resources' insurers.

The judgment in this case is based on the same evidence considered in the above-referenced *Florida Gas* and *Crosstex Energy Services* decisions, and we affirm the November 11, 2017 district court judgment involuntarily dismissing Steadfast Insurance Company, AIG Specialty Insurance Company, Lexington Insurance Company, and National Union Fire Insurance Company of Pittsburgh, Pa., in their respective capacities as insurers of Adams Resources Exploration Company with prejudice for the reasons stated therein.<sup>4</sup> This memorandum opinion is issued in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B). All costs of this appeal are assessed against Texas Brine Company, LLC.

**AFFIRMED.**<sup>5</sup>

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<sup>4</sup> Texas Brine also maintains that the district court erred in its dismissal of Texas Brine's claims against the Adams Resources' insurers based on Louisiana law in effect before 1996. (Appellant Brief at pp. 16-17). For the reasons provided in *Pontchartrain Natural Gas System*, \_\_\_ So. 3d \_\_\_, 2019 WL 2865136, p. 6, this argument has no merit.

<sup>5</sup> Occidental Chemical Corporation, Occidental Petroleum Corporation, and Oxy USA, Inc. filed a motion to consolidate this appeal with eight other appeals arising out of the liability trial. As to this appeal, that motion is denied.