

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2018 CA 1170

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

On Appeal from the
23rd Judicial District Court
In and for the Parish of Assumption
State of Louisiana
Trial Court No. 34,265

Honorable Thomas J. Kliebert, Jr., Judge Presiding

Leopold Z. Sher
James M. Garner
Peter L. Hilbert, Jr.
Jeffrey D. Kessler
Rebekka C. Veith
David A. Freedman
New Orleans, LA

Attorneys for Appellant/Defendant,
Third-Party Plaintiff,
Texas Brine Company, LLC

Travis J. Turner
Gonzales, LA

Robert Ryland Percy, III
Gonzales, LA

Joseph L. Shea, Jr.
Katherine Smith Baker
Ashley G. Gable
Joshua S. Chevallier
Shreveport, LA

Attorneys for Appellee/Third-Party Defendant,
Reliance Petroleum Corporation

Matthew J. Randazzo, III
Christopher B. Bailey
Will Montz
Lafayette, LA

Attorneys for Appellees/Third-Party Defendants,
LORCA Corporation and Colorado Crude
Company

TMH
W
akp

Frank H. Spruiell, Jr.
Reid A. Jones
Seth M. Moyers
Shreveport, LA

Attorneys for Appellee/Third-Party Defendant,
Sol Kirschner

Martin A. Stern
Leigh Ann Schell
Raymond P. Ward
Sara Valentine
New Orleans, LA

Attorneys for Appellees/Defendants,
Third-Party Defendants,
Occidental Chemical Corporation,
Occidental Petroleum Corporation,
Basic Chemicals Company, LLC,
and Occidental VCM, LLC

Kathy Patrick
Angus J. Dodson
Laura J. Kissel
Houston, TX

Sidney W. Degan, III
Julia A. Dietz
Wade B. Hammett
Matthew F. Morgan
New Orleans, LA

Attorneys for Appellee/Third-Party Defendant,
Chicago Insurance Company

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BEFORE: HIGGINBOTHAM,¹ PENZATO, AND LANIER, JJ.

¹ 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.

HIGGINBOTHAM, J.

Texas Brine Company, LLC, the operator of a brine production well known as Oxy Geismer #3 (“the OG3 well”) in Assumption Parish, challenges a partial summary judgment decided on September 27, 2017, dismissing Texas Brine’s third-party *contract* claims against the non-operators of a nearby oil and gas well known as Adams-Hooker #1 (“the AH1 well”). The dismissed non-operators of the AH1 well include LORCA Corporation, Colorado Crude Company, Sol Kirschner, Reliance Petroleum Corporation, and its insurer, Chicago Insurance Company. This court previously affirmed Texas Brine’s challenge to the summary judgment dismissal of its third-party *tort* claims, including indemnity and contribution claims, against the non-operators of the AH1 well in **Pontchartrain Natural Gas System v. Texas Brine Company, LLC**, 2018-0606 (La. App. 1st Cir. 12/21/18), 268 So.3d 1058, writ denied, 2019-0526 (La. 6/17/19), 273 So.3d 1210.²

In **Crosstex Energy Services, LP v. Texas Brine Company, LLC**, 2018-1213 (La. App. 1st Cir. 7/11/19), ___ So.3d ___, 2019 WL 3049762, writ denied, 2019-01126 (La. 7/17/19), 277 So.3d 1180, another panel of this court decided an identical appeal concerning the dismissal of Texas Brine’s third-party contract claims against the AH1 well non-operators. Although the **Crosstex** case involves a different pipeline plaintiff than in the case *sub judice*, the **Crosstex** summary judgment dismissed the same Texas Brine third-party contract demands against the AH1 well non-operators that Texas Brine now challenges in this appeal.³

² Texas Brine’s assignments of error challenging the previously dismissed third-party tort claims against the non-operators will not be re-considered in this appeal.

³ The **Crosstex** case affirmed the dismissals of all but one non-operator, Colorado Crude, because the record in that particular case did not show that Colorado Crude had moved for summary judgment on Texas Brine’s breach of contract claims. **Crosstex**, 2019 WL 3049762 at *5. In the case before us, however, on August 14, 2019, the district court ordered the supplementation of this appellate record with Colorado Crude’s July 24, 2017 joinder alongside other oil and gas defendants, including non-operator LORCA, in the motion for summary judgment regarding the dismissal of Texas Brine’s contract claims against them.

After a thorough review of the record, we find no material distinctions between the evidence and arguments asserted in this appeal and the **Crosstex** matter, which we are bound to follow as the law of this circuit. See Pontchartrain Natural Gas System v. Texas Brine Company, LLC, 2018-0001 (La. App. 1st Cir. 6/4/18), 253 So.3d 156, writ denied, 2018-1124 (La. 9/28/18), 253 So.3d 147. Thus, we affirm the district court's September 27, 2017 judgment dismissing Texas Brine's third-party contract claims against LORCA Corporation, Colorado Crude Company, Sol Kirschner, Reliance Petroleum Corporation, and Chicago Insurance Company. We issue this summary disposition in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.2(A)(2) and (6), and we assess all costs of this appeal to Texas Brine. Further, we deny Texas Brine's pending motion to supplement the record and we grant Texas Brine's pending motion to withdraw counsel.

**PENDING MOTION TO SUPPLEMENT THE RECORD DENIED;
PENDING MOTION TO WITHDRAW COUNSEL GRANTED; JUDGMENT
AFFIRMED.**