

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2018 CA 1714

FLORIDA GAS TRANSMISSION COMPANY, LLC

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. 34,316

Honorable Thomas J. Kliebert, Jr., Judge Presiding

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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.

This is one of several lawsuits connected to the sinkhole litigation that originated in Assumption Parish. Following the development of a sinkhole in August 2012, Florida Gas Transmission Company filed suit against Texas Brine Company, LLC, alleging Texas Brine's salt mining operations at the OG3 brine well caused the sinkhole and damaged Florida Gas's nearby pipelines. Texas Brine filed several incidental demands asserting both tort and contract claims against various parties, including the non-operators of a nearby oil and gas well known as the AH1 well. The pertinent third-party defendant non-operators consist of Sol Kirschner, LORCA Corporation, Colorado Crude Company, and Reliance Petroleum Corporation and its insurer, Chicago Insurance Company.

The non-operators filed motions for summary judgment seeking dismissal of Texas Brine's third-party tort and contract claims. The district court granted the motions and dismissed all of Texas Brine's third-party tort claims against the non-operators on August 23, 2017, and the third-party breach of contract claims against the non-operators in a separate judgment on September 20, 2017. In this case, Texas Brine appealed both judgments in one motion for appeal, which was granted by the district court on June 18, 2018. This court, however, lodged the appeals separately under docket number 2018 CA 1714 for the August 23, 2017 tort judgment and under docket number 2018 CA 1778 for the September 20, 2017 contract judgment.

On December 20, 2018, this court, *ex proprio motu*, issued a Show Cause Order concerning the apparent untimeliness of Texas Brine's motion for devolutive appeal of the district court's August 23, 2017 summary judgment dismissing Texas Brine's tort claims against the non-operators of the AH1 well. On March 22, 2019, another panel of this court referred the show cause/timeliness issue to this merits panel, assigned to hear this appeal. We find that it is unnecessary to decide whether Texas Brine's appeal of the dismissal of its third-party tort claims against the non-

operators is timely, because that issue is now moot. This court recently decided in **Florida Gas Transmission Company, LLC v. Texas Brine Company, LLC**, 2018-0549 (La. App. 1st Cir. 7/1/19), 2019 WL 2723560, *1; **Crosstex Energy Services, LP v. Texas Brine Company, LLC**, 2018-0749 (La. App. 1st Cir. 2/27/19), 2019 WL 969564, *1; and **Pontchartrain Natural Gas System v. Texas Brine Company, LLC**, 2018-0606 (La. App. 1st Cir. 12/21/18), 268 So.3d 1058, 1063-64, writ denied, 2019-0526 (La. 6/17/19), 273 So.3d 1210, that the district court did not err in dismissing all of Texas Brine's third-party tort claims against each of the non-operators in the various pipeline lawsuits. After a thorough review of the record, we find no material distinction between the evidence and arguments asserted in each of these proceedings.

Moreover, we have determined that this particular appeal is a duplicate of Texas Brine's appeal filed in the above-referenced **Florida Gas** case, docket number 2018 CA 0549. Therefore, we dismiss this appeal under docket number 2018 CA 1714, as moot. Further, while we grant Texas Brine's pending motion to withdraw counsel as was done in similar sinkhole cases, we find that the rule to show cause timeliness issue and any other pending motions in this particular appeal are also moot. See **Crosstex Energy Services v. Texas Brine Company, LLC**, 2018-1189 (La. App. 1st Cir. 2/27/19), 2019 WL 966910, *1. We issue this summary disposition in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.2(A)(2) and (3). All costs of this appeal are assessed to Texas Brine Company, LLC.

MOTION TO WITHDRAW GRANTED; RULE TO SHOW CAUSE, APPEAL AND ALL OTHER PENDING MOTIONS DISMISSED AS MOOT.