

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

NO. 2018 CA 0206

FLORIDA GAS TRANSMISSION COMPANY, ET AL.

VERSUS

TEXAS BRINE COMPANY, LLC, ET AL.

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On appeal from the
23rd Judicial District Court
Parish of Assumption, State of Louisiana
No. 34316

MAY 19 2020

The Honorable Thomas J. Kliebert Jr., Judge Presiding

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BEFORE: McDONALD, CRAIN,¹ AND LANIER, JJ.

¹ Justice Will Crain is serving as judge *ad hoc* by special appointment of the Louisiana Supreme Court.

CRAIN, J.

This case arises out of the sinkhole that developed in Assumption Parish after the collapse of a salt cavern in the Napoleonville Salt Dome. Texas Brine Company, LLC, appeals a summary judgment dismissing its claims against National Surety Corporation, the homeowner's insurer of Sol Kirschner, based on a policy exclusion. Since the appeal was taken, this court affirmed judgments dismissing tort and contract claims asserted against Kirschner. *See Florida Gas Transmission Company, LLC v. Texas Brine Company, LLC*, 18-1778 (La. App. 1 Cir. 12/27/19), ___ So. 3d ___ (2019WL7206876) (affirming dismissal of contract claims against Kirschner), *writ denied*, 20-00332 (La. 5/7/20), ___ So. 3d ___ (2020WL2300060); *Florida Gas Transmission Company, LLC v. Texas Brine Company, LLC*, 18-0549, 2019WL2723560 (La. App. 1 Cir. 7/1/19) (affirming dismissal of tort claims against Kirschner), *writ denied*, 19-01227 (La. 10/15/19), 280 So. 3d 611; *see also Florida Gas Transmission Company, LLC v. Texas Brine Company, LLC*, 18-1714 (La. App. 1 Cir. 11/15/19), 290 So. 3d 719 (finding the appeal duplicative of the appeal docketed as 2018 CA 0549, and moot). Texas Brine now has neither a substantive cause of action against Kirschner nor a procedural right of action under the Direct Action Statute against National Surety. *See* La. R.S. 22:1269. Consequently, this appeal is moot and this court lacks jurisdiction to consider its merits. *See Crosstex Energy Services, LP v. Texas Brine Company, LLC*, 18-0117, 2018WL10035630 (La. App. 1 Cir. 11/20/18); *see also Ulrich v. Robinson*, 18-0534 (La. 3/26/19), 282 So. 3d 180, 186 (recognizing jurisdiction may abate if a case becomes moot during the litigation).

Complying with Uniform Rules – Courts of Appeal, Rule 2-16.2A(3), this appeal is dismissed at Texas Brine's cost. National Surety's costs motion, urged if costs are assessed against it, is also dismissed as moot.

APPEAL DISMISSED; MOTION DISMISSED.