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24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

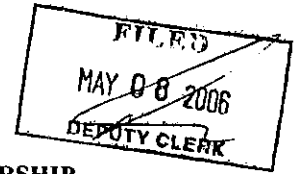
No. 606-555

DIVISION "J"

NANCY BLANCHARD AND PARK PLANTATION, LLC

VS.

LINDER OIL COMPANY, A PARTNERSHIP;
TORTUGA OPERATING CO.;
AND BLANCHARD 1986 LTD., A LIMITED PARTNERSHIP



JUDGMENT

The Motion to Compel, filed by plaintiffs, Nancy Blanchard, et al, and numerous exceptions, filed by all defendants, came for hearing and adjudication on March 4, 2005.

PRESENT WERE:

Ms. Nancy Miller and Mr. Anthony Irpino, counsel for plaintiffs, Nancy Blanchard, et al.

Mr. Herman E. Garner, counsel for defendant, Linder Oil Company, a Partnership (hereinafter "Linder defendants").

Mr. Charles R. Minyard, counsel for defendants, Tortuga Operating Co.; Blanchard 1986 LTD, Tortuga Interests, Inc.; John Hine and Peter Turbett (hereinafter "Tortuga defendants").

Mr. Walter P. Maestri, counsel for defendant, Atlantic Refining Company (now "B.P. Amoco")

Mr. Joe B. Norman, counsel for defendant, Texaco Exploration and Production, Inc.

Ms. Julie Silbert, counsel for defendant, Marathon Oil Co.

Exceptions filed by Tortuga Defendants

1.) Res Judicata:

1a.) Tortuga defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition and 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, for events which occurred before settlement of Betty Blanchard I (hereinafter "BBI") are barred by exception of res judicata because such claims were released in BBI:

Exception of res judicata is granted in part as to only those claims for environmental damage (count 1) and for subsurface damage (count 6) for events which occurred before the settlement of BBI and were actually plead in BBI because such claims were released in BBI. The release is binding upon "the executors, administrators, personal representatives, heirs, successors, and assigns of Petitioners." Park Plantation L.L.C. (hereinafter "PP L.L.C.") and Nancy Blanchard (hereinafter "NB") are part owners of Park Plantation (hereinafter "PP") and are the successors/assigns of Betty Blanchard (hereinafter "BB") as to PP as evidenced by the pleadings advanced by these plaintiffs

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concerning the same transactions or occurrences. Prior to the 1991 amendment, res judicata only barred those claims actually contained within the pleadings of the prior case. Thus, only those claims actually contained within pleadings of BBI are barred. The Release, Receipt and Settlement in BBI are governed by the res judicata law in effect prior to the 1991 amendment. Unlike the law after the 1991 amendment, the law prior did not include issue preclusion nor did it apply to claims not brought in the prior suit that arose out of the same transaction or occurrence. It is noted by the court however that plaintiffs have alleged that the claims in count 1 and count 6 were discovered in 2003 and 2004 and therefore on the face of the petition these alleged claims were not made in BBI and are not barred by the pre-1991 res judicata law in effect.

Exception is denied in part as to the 11.45 acres that NB owns individually as it is undisputed by the evidence that at the time of the settlement of BBI, BB didn't own the 11.45 acres rather it was owned by Judge John Conery. Therefore, BB had no authority to bring a claim nor settle the matter as it relates to the 11.45 acres originally owned by Judge Conery and now by NB. Since the 11.45 acres was not subject to the settlement and/or option to purchase (if valid), plaintiffs are not barred by the doctrine of res judicata. The argument advanced by defendants is a defense that is not proper to bring in exception of res judicata.

Exception is denied as to the option contained in the settlement of BBI. While the option (containing 150 acres) appears to clearly include "future claims" and as such it would seem to encompass the claims brought by plaintiffs regarding the option the validity of the option is disputed. This court has not determined whether the option is valid and/or enforceable which goes to the merits of the case. The argument advanced by defendants is a defense that is not proper to bring in this exception. Additionally, denied as to the remaining acres not included in the 150 acres or the 11.45 acres owned individually by plaintiff, NB. The argument advanced by defendants is a defense that is not proper to bring in this exception.

1b.) Tortuga defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and Third Amended Petition, for events which occurred between the settlement of BBI and the filing of Betty Blanchard II (hereinafter "BBII") are barred by the exception of res judicata because such claims were and/or could have been brought in BBII.

Exception of Res Judicata does not apply to these causes of action. BBII was dismissed on both R.12(b)(6) (failure to state a claim) and R.12(b)(1) motions (lack of subject matter jurisdiction). Louisiana and federal jurisprudence hold that when a Fed.R.Civ.P. 12(b)(1) motion is filed in conjunction with other R.12 motions (ie: 12(b)(6)) the courts should give R.12(b)(1) motions precedence. After all, if the court lacks subject matter jurisdiction, assessment of the merits becomes

a matter of purely "academic interest." Since BBII found that plaintiff, PP L.L.C., lacked standing (ie: lack of jurisdiction) the court did not have the authority to decide the substantive issues of failure to state a claim or prescription. Therefore, the decision in BBII regarding failure to state a claim and prescription have no res judicata effect on the claims brought in this case.

Additional reasons for denial of this exception exist. BBII, despite defendants assertions to the contrary, was not an environmental damage case. The pleadings filed in BBII indicate and support the position of plaintiffs that BBII was based on nullity of settlement, breach of contract and royalties. Although the pleadings contain a prayer for the request of the clean up of environmental damage, the pleadings and documents themselves do not contain any factual allegations of contamination. Thus, this claim as alleged does not arise out of the same transaction or occurrence as BBII and are therefore not barred by res judicata. Furthermore, in this case, the plaintiffs allege that their cause of action for environmental and subsurface damage arose (was discovered) in 2003 and 2004. Based on the pleadings and evidence submitted, plaintiffs could not have brought this cause of action in the federal case (BBII) as the alleged events didn't arise until after the BBII judgment was rendered in 2002. For res judicata purposes, privity exists in three, limited circumstances: (1) where the non-party is the successor in interest to a party's interest in property; (2) where the non-party controlled the prior litigation; and (3) where the non-party's interests were adequately represented by a party to the original suit is so closely aligned with his interests as to be his virtual representative. In BBII, PP L.L.C. was the only plaintiff whereas in this case NB and PP L.L.C. are the plaintiffs. Although NB was not a party to the BBII case her interests as part owner of PP with PP L.L.C. were so closely aligned with that of PP L.L.C. that privity exists and NB as part owner of PP is considered to be in privity with PP L.L.C. As to NB's individual interest in the 11.45 acres, PP L.L.C. had no interest in the 11.45 acres and thus in her individual capacity could not be considered in privity with PP L.L.C.

1c.) Tortuga defendants contend that claims for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred before the settlement of BBI are barred by exception of res judicata because such claims were released in BBI.

These claims were not released in BBI and are not subject to res judicata. The Release, Receipt and Settlement in BBI are governed by the res judicata law in effect prior to the 1991 amendment. Unlike the law after 1991 amendment, the prior law did not include issue preclusion nor did it apply to claims not brought in the prior suit that arose out of the same transaction or occurrence. Prior to the 1991 amendment, res judicata only barred those claims actually contained within the pleadings of the prior case. Plaintiffs have alleged claims in count 1 for punitive damages under C.C. art. 2315.3 which were not plead in BBI and thus on the face of the petition these alleged

claims were not made in BBI. Therefore, these claims are not barred by the pre-1991 res judicata law in effect.

1d.) Tortuga defendants contend that claim for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred between the settlement of BBI and BBII are barred by res judicata because of the judgment rendered in BBII

Claim for punitive damages for events which occurred between BBI and BBII are not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1e.) Tortuga defendants contend that claim that settlement agreement which compromised BBI is unenforceable (count 1) in Third Amended Petition is barred by res judicata based on the judgment rendered in BBII.

This claim is not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1f.) Tortuga defendants contend that claims for attempted forfeiture (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, seeking to have the option to purchase declared invalid and unenforceable is barred by res judicata because such claims were and/or could have been brought in BBII.

Again, this claim is not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1g.) Tortuga defendants contend that claim for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, for alleged non-payment of royalties due before the filing of BBII is barred by res judicata because such claims could have been brought in BBII.

Exception of res judicata does not bar this claim. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1h.) Tortuga defendants contend that claim for demand of release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is barred by res judicata because such claims could have been brought in BBII.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1i.) Tortuga defendants contend that claims for environmental damage (count 1) Third Amended Petition, allegedly due to contamination from properties adjacent to PP are barred by res judicata based on resolution and settlement of BBI.

These claims were not released in BBI and are not subject to res judicata. (See reasons for denial Tortuga defendants Res Judicata #1c above).

1j.) Tortuga defendants contend that claims for environmental damage (count 1) in Third Amended Petition allegedly due to contamination from properties adjacent to PP are barred by res judicata based on the resolution of BBII.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

2.) Lack of Subject Matter Jurisdiction

2a.) Tortuga defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and Third Amended Petition are not properly before this court because the LA Department of Natural resources, Office of Conservation ("LOC") has primary jurisdiction over these claims.

Defendants originally argued that the doctrine of exhaustion of remedies and primary jurisdiction requires deferral by this court to the primary jurisdiction of the LOC, DNR and/or CMD. However, in its reply memo, defendants concede that regulatory agencies don't have exclusive jurisdiction and deferral is discretionary but suggest to the court that the parties and the court would benefit if plaintiffs were required to submit their claims to the appropriate regulatory agency as has been done in other cases. Under LA law, private landowners in LA have no duty to seek relief from an administrative agency before filing suit against an oil company for contamination (*Corbello*¹ & *Magnolia Coal*² cases). Deferment to state agencies is within the sound discretion of the trial court.

In the instant case, the court declines to defer this matter to various state agencies. The damages recoverable, if any, as a result of the alleged contamination "are within the conventional knowledge and expertise of a trier of ..." (*Magnolia Coal*³). There is no reason for this court to conclude that the plaintiffs in this suit, assisted as they most likely will be by expert witnesses, will not be able to adequately and sufficiently educate the trier of fact for a reliable verdict to be reached. Additionally, there is no evidence in the record to indicate that the state agencies have intervened

¹ *Corbello, et al v. Iowa Production, et al*, 850 So.2d 686 (La. 2003).

² *Magnolia Coal Terminal v. Phillips Oil Company*, 576 So.2d 475 (La. 1991).

³ *Id.*

in the suit despite plaintiffs providing notice to them by a copy of the pleadings as required under the law. Considering the particular facts of this case, preliminary submission of these claims to the LOC, DNR, and/or CMD is not necessary and the court declines deferral.

3.) Prematurity

3a.) Tortuga defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, are premature because plaintiffs have failed to exhaust their administrative remedies before the LOC.

Exception of Prematurity is denied. (See reasons for denial Tortuga defendants Subject Matter Jurisdiction #2a above).

3b.) Tortuga defendants contend that claims for remediation of PP based on claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition are premature because the duty to restore does not arise until after the lease has expired.

Exception of prematurity is denied in part and granted in part. The language cited by defendants (ie: “the duty to repair the leased premises does not arise until the lease expires”) from the Corbello⁴ case is merely dicta because the jury in that case had already found that there were no damages caused by that defendant Rosewood so it was unnecessary to make that statement. The distinguishing factor from the Corbello⁵ case and this case is that the Corbello⁶ case involved an express lease provision obligating the lessee, upon termination of the lease, to “reasonably restore the premises as nearly as possible to their present condition.” The court expressed that the lease terms constituted the law between the parties and relied upon general principles of contract interpretation to find that the defendant was required to restore the surface to its original condition regardless of the value of the land. In this case, there is no allegation or argument that the mineral lease includes any language regarding a duty to restore the property.

The court must look to the statutes relevant to mineral leases and the duties imposed on lessees. R.S. 31:122 provides that a mineral lessee doesn’t have a fiduciary obligation to lessor but that he is to perform contract in good faith, develop and operate leased premises as a reasonably prudent operator for the mutual benefit of the parties to the contract. The Supreme Court in

⁴ Corbello, et al v. Iowa Production, et al, 850 So.2d 686 (La. 2003).

⁵ Id.

⁶ Id.

Terrebonne Parish School Board⁷ addressed an “implied duty” in R.S. 31:122 to restore the surface of the leased property. The court held that “in the absence of an express lease provision, Mineral Code article 122 does not impose an implied duty to restore the surface to its original, pre-lease condition absent proof that the lessee has exercised his rights under the lease unreasonably or excessively. In this case, there are allegations of negligent use by the mineral lessees in the petition. Therefore, the court must determine, assuming the allegations are true, when the lessor, plaintiffs can sue to enforce the lessees obligation to restore the land. The Supreme Court in Frey⁸ held that when a mineral lease or the Mineral Code is silent as to an issue, mineral leases should be construed pursuant to the Civil Code provisions applicable to ordinary leases. (See C.C. art. 2683(3) - the lessee is bound: (3) to return the thing at the end of the lease in a condition that is the same as it was when the thing was delivered to him, except for normal wear and tear or as otherwise provided hereafter). In Isadore⁹ the court held that the duty to repair damages under a mineral lease exists “upon completion of the operations,” relying on the comments to R.S. 31:122. While some language in Isadore¹⁰ regarding extent of the obligation to restore has been overruled by Terrebonne Parish School Board¹¹, the discussion of when such duty arises remains valid. Applying the jurisprudence and statutory language, the Supreme Court has held that in the absence of an express lease provision, Mineral Code art. 122 doesn’t impose an implied duty to restore the surface to its original, pre-lease condition absent proof that the lessee has exercised his rights under the lease unreasonably or excessively.

In determining whether plaintiffs claims for restoration are premature, the court must look to the petition to determine the claims made by plaintiff. To the extent that they involve either a prayer to maintain the leased land as a reasonably prudent operator as required under R.S. 31:122, or to restore land upon which operations have been completed to the extent that the use of such land was negligent, the exceptions of prematurity are overruled. To the extent that plaintiff’s claims involve the defendants/lessees’ obligation to restore lands on which operations are ongoing, the claims are premature.

3c.) Tortuga defendants contend claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is

⁷ Terrebonne Parish School Board v. Castex Energy, 893 So.2d 789 (La. 2005).

⁸ Frey v. Amoco, 603 So.2d 166 (La. 1992).

⁹ Isadore v. Probe Offshore, L.L.C., et.al. 815 So.2d 876 (3rd Cir. 2001).

¹⁰ Id.

¹¹ Terrebonne Parish School Board v. Castex Energy, 893 So.2d 789 (La. 2005).

premature because no drainage has taken place as required on PP.

Exception of prematurity is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

4.) Improper Venue:

4a.) Tortuga defendants contend that claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2^d Amended Petition, 3rd Amended Petition, is not in the proper venue because said claim constitutes an impermissible collateral attack on an order issued or to be issued by the LOC and actions challenging such orders must be brought in the 19th JDC for the East Baton Rouge Parish pursuant to R.S. 30:12.

Exception of Improper Venue is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

5.) Vagueness

5a.) Tortuga defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition and 3rd Amended Petition are vague because the allegations fail to specify with sufficient detail the particulars of the alleged contamination specifically said claims fail to allege the events or acts that allegedly caused the contamination

Exception of vagueness is denied. LA law only requires that a petition contain a short, clear, and concise statement of all causes of action arising out of and of the material facts of, the transaction or occurrence that is the subject matter of the litigation pursuant to C.C.P. art. 891. The intent of an exception of vagueness is to place the defendant on notice of the nature of the facts sought to be proved so as to enable him to identify the cause of action and include facts sufficient to enable him to prepare a defense. However, the exception does not entitle the defendant to demand an exactitude and detail of pleading beyond the aims. Thus, if the plaintiff's petition fairly informs the defendant of the nature of the cause of action and includes sufficient substantial particulars to enable the defendant to prepare his defense, then the exception will be denied. This case, plaintiff has plead more than sufficient substantial particulars to inform defendants of the nature of the cause of the action and enable them to prepare their defense. Defendants are not entitled to the precise particulars that they are seeking as this will be brought forth in the discovery process.

5b.) Tortuga defendants contend claims for environmental damage (count 1) in 3rd Amended Petition, allegedly due to contamination from properties adjacent to PP as said claims fail to allege when contamination on neighboring properties occurred, the specific locations on the

neighboring properties where such alleged contamination occurred and when and how such alleged contamination migrated onto PP and also fail to specify what portion of the alleged contamination on PP that allegedly migrated from offsite is attributable to which defendant.

Exception of vagueness is granted but the plaintiff is given 15 days to amend to remove the objection, if possible.

6.) Improper Cumulation of Actions:

6a.) Tortuga defendants contend that claims for demand for release of acreage (count 4) and for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, to the extent they seek dissolution of the lease are improperly cumulated with the claim for drainage (count 5) and the claims for demand for release of acreage to the extent these claims seek performance under the lease and require defendants to be put on notice of default.

Exception is granted in part and denied in part.

Exception of Improper Cumulation of Actions regarding claim for drainage is denied as Moot. Plaintiff stipulated that drainage claim is premature.

Exception of Improper Cumulation regarding dissolution of lease and performance is granted. Per the Mineral Code art. 134 and official comment claims for dissolution of the lease are inconsistent with claims for further development consistent with lease obligations. The official comment to art. 134 states: "However, there are some instances in which certain alternative pleadings appear impossible. For example, if an action is brought to have a lease declared terminated for failure to produce in paying quantities and is combined with an alternative demand for further development the pleadings would be hopelessly inconsistent. The demand for dissolution by running of the term does not require a putting in default and is based on the assertion that the lease has expired by its own terms. An action for failure to develop must necessarily be preceded by a putting in default, which is an admission that the contract is still in force and a request for performance. Thus these two remedies could not be successfully pleaded in the alternative." The official comment to art. 124 dealing with the requirement of paying quantities is in agreement with comment in art. 134. The comment states that in a suit seeking dissolution for nonperformance of the obligation of further development it "must usually be preceded by a demand for performance, thus admitting that the lease is still in force." On the other hand, a suit claiming that the lease has terminated for failure to produce in paying quantities, "performance is not what is desired by the lessor, his position being based on the contention that the lease has terminated automatically."

In the present case the plaintiffs failed to elect one of the two remedies. Plaintiffs concede that they do assume that existence of the lease by making a demand for development. However,

plaintiffs contend that defendant's refusal to engage in the requisite development gives rise to a claim for damages and dissolution of the lease and said dissolution would take place in the future upon the entry of a final judgment. Thus plaintiffs contend claims are not inconsistent. The court disagrees with plaintiffs analysis of this issue. A plain reading of the articles and official comments lead the court to the conclusion that plaintiffs have plead hopelessly inconsistent claims. The exception of improper cumulation is granted but the plaintiff is given 15 days to remove the objection, if possible.

6b.) Tortuga defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) based on alleged contamination migrating from properties neighboring PP, in 3rd Amended Petition, have been improperly cumulated with the present case because these claims are unrelated to plaintiffs claims for environmental contamination allegedly resulting from defendant's operations on PP and present separate claims against separate defendants on the respective adjoining properties.

Exception of improper cumulation is granted and plaintiff is given 15 days to remove the objection, if possible. The alleged contamination migrating from properties neighboring PP are clearly unrelated to plaintiffs environmental damage and subsurface damage claims in this case allegedly resulting from defendant's operations on PP and present separate claims against separate defendants or non-defendants on the respective adjoining properties.

7.) No Cause of Action

7a.) Tortuga defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising before settlement of BBI fail to state a cause of action because said claims are released.

Exception of no cause of action is granted in part and denied in part.

Exception of no cause of action is denied as to 11.45 acres that NB owns individually as it is undisputed by the evidence that at the time of the settlement of BBI, BB didn't own the 11.45 and had no authority to bring a claim nor settle the matter as it relates to the 11.45 acres individually owned by NB.

Exception of no cause of action is granted in part as to only those claims for environmental damage (count 1) and for subsurface damage (count 6) for events which occurred before settlement of the BBI and specifically contained in the pleadings of BBI because such claims were released in BBI. This claim is barred by res judicata. Exception is denied as to those claims alleged by plaintiffs as arising in 2003 and 2004. (See reasons Tortuga defendants Res Judicata #1a. above).

7b.) Tortuga defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising after the settlement for BBI fail to state a cause of action because said claims are to be assigned to defendants under the option to purchase.

Exception of no cause of action is denied.

Denied in part to the 11.45 acres individually owned by NB. The 11.45 acres was not owned by BB at the time of the settlement and/or option to purchase. Since the 11.45 acres was not subject to the settlement and/or option to purchase, plaintiffs have adequately stated a cause of action for environmental damage (count 1) and subsurface damage (count 6) arising after the settlement. The argument advanced by defendants is a defense that is not proper to bring in exception of no cause of action.

Denied in part 150 acres that is covered under the option to purchase which is disputed and this court has not determined whether the option is valid and/or enforceable which goes to the merits of the case. Plaintiffs have adequately stated a cause of action for this claim. The argument advanced by defendants is a defense that is not proper to bring in exception of no cause of action.

Denied in part to the remaining acres not included in the 150 acres or the 11.45 acres owned individually by plaintiff, NB. Plaintiffs have adequately stated a cause of action for this claim. The argument advanced by defendants is a defense that is not proper to bring in exception of no cause of action.

7c.) Tortuga defendants contend claim for remediation of PP based on claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fail to state a cause of action because the duty to repair the leased property doesn't arise until the lease expires.

Granted in part and denied in part. The language cited by defendants from the Corbello¹² case regarding "duty to repair the leased premises does not arise until the lease expires," is merely dicta because the jury in that case had already found that there were no damages caused by the defendant, Rosewood, so it was unnecessary to make that statement. Corbello¹³ is distinguishable from this case because in Corbello¹⁴ there was an express lease provision obligating lessee to restore premises upon

¹² Corbello, et al v. Iowa Production, et al, 850 So.2d 686 (La. 2003).

¹³ Id.

¹⁴ Id.

termination to lease to present condition. In this case, there is no allegation or argument that the lease includes any language regarding a duty to restore the property.

To the extent that plaintiffs petitions involve either a prayer to maintain the leased land as a reasonably prudent operator as required under R.S. 31:122, or to restore land upon which operations have been completed to the extent that the use of such land was negligent, the plaintiffs have stated a cause of action. However, to the extent the plaintiffs allegations involve defendants obligation to restore lands on which operations are ongoing, plaintiffs have failed to state a cause of action because this claim is premature (see reasons granting prematurity same issue above).

7d.) Tortuga defendants contend claim for unjust enrichment for the alleged unauthorized disposal on PP of waste based on claim for environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because other legal remedies exist at law.

Exception of no cause of action is granted. Defendants argue and plaintiffs concede that when a remedy at law is available to address injury a claim for unjust enrichment is not available. Even the court has ruled in favor of defendants on some of the claims, several of plaintiffs claims remain. Therefore, since plaintiffs have an available remedy to address their alleged injury, the plaintiffs have failed to state a cause of action for unjust enrichment.

7e.) Tortuga defendants contend claim for punitive damages under C.C. art. 2315.3 based on environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because this statute was repealed in 1996 and any such claim prior to that date was compromised in the settlement of BBI in 1986.

Exception of no cause of action is denied. Plaintiffs have adequately stated a cause of action for punitive damages under C.C. art. 2315.3 during the time period in which the statute was in effect. A plaintiff only has to allege damages stemming from a defendant's conduct in violation of the article and alleged that it occurred during the period of time that the article was in effect. Plaintiffs have done this in their 3rd Amended Petition ¶34-61. Furthermore, the claim was not compromised in the settlement of BBI for the reasons previously stated above (Res Judicata section #1c).

7f.) Tortuga defendants contend that claim for in solido liability for all defendants based on claims for environmental damage (count 1) and subsurface damage (count 6) in 3rd Amended Petition resulting from migration of alleged migration of alleged contamination from properties neighboring PP fails to state a cause of action because in solido liability is not applicable.

Exception of no cause of action is granted and plaintiff is given 15 days to remove said

objection, if possible. The 3rd Amended Petition fails to state a cause of action that all defendants are liable in solido.

7g.) Tortuga defendants contend that claim for a declaration that the option to purchase is null & void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, as a prohibited transfer of a future thing fails to state a cause of action because future things may be the object of a contract under C.C. art. 1976 and the object of a contract may be that a third party will incur an obligation or render a performance under C.C. art. 1977.

Exception of no cause of action is denied. Defendant contends and plaintiffs concede that future things may be the object of a contract to sale. However, plaintiffs contend that they have stated a cause of action under C.C. art. 2452 in that the sale of a thing belonging to another doesn't convey ownership. The court agrees that the plaintiffs have stated a cause of action. The plaintiffs allege that the obligation to transfer future rights to environmental claims to defendants was strictly personal and was not transferred to plaintiff, PP L.L.C. upon its acquisition of PP and no one may transfer a greater right than he or she has. Exception is denied.

7h.) Tortuga defendants contend that the claim for a declaration that the option to purchase is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition for lesion fails to state a cause of action because the option is part of the settlement documents which compromised BBI and can't be voided for lesion under C.C. art. 3078.

Exception of no cause of action is denied. While defendants may have a valid defense for why option can't be attacked on the grounds of lesion (ie: part of the settlement), plaintiffs dispute that the option is part of the settlement documents and that it is null and void on several different grounds. Plaintiffs have stated a cause of action for lesion for declaration that option to purchase is null and void by alleging that the 150 acres subject to the option is worth more than twice the sale price. Additionally plaintiffs have alleged other grounds why option is null and void (ie: absolute nullity). Defendants have asserted a defense to this cause of action that is more properly referred to the merits of the case.

7i.) Tortuga defendants contend claim for release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, which seeks to dissolve the oil and gas lease on PP based on development demand fails to state a cause of action because such demand can't be coupled with demands for lease cancellation.

Exception is granted for reasons stated in section dealing with Improper Cumulation of Actions above. The plaintiff is given 15 days to amend petition to remove the objection if possible.

7j.) Tortuga defendants contend claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails to state a cause of action because LA law doesn't recognize a claim for potential drainage, only actual drainage.

Exception of no cause of action is denied as moot. Plaintiff conceded that claim was premature and withdrew claim at the hearing.

8.) No Right of Action:

8a.) Tortuga defendants contend that plaintiffs have no right of action regarding claim that the settlement is null and void due to BB's lack of consent (count 1) in 3rd Amended Petition, because only BB may seek rescission based on such relative nullity.

Exception of No Right of Action is granted in part and denied in part.

Denied in part in that plaintiffs allege that settlement is null and void under C.C.P. art. 1426(D) and that under provision (E) any substantially affected person has standing to contest any agreement or contract contrary to public policy pursuant to paragraph (D) of C.C.P. art. 1426. Plaintiffs have alleged that the purpose or effect of the settlement in question is to conceal a public hazard and is thus null and void. The option provides that if anyone brings an environmental claim including governmental agencies and so on then defendants may purchase and claims will be withdrawn or dismissed. Under C.C.P. art. 1426, plaintiffs have a right of action to bring claim pursuant to this article.

Granted as to plaintiffs bringing this suit to pursue claims of BB because of an alleged transfer of BB's rights to pursue such claims to plaintiffs. C.C.P. art. 2031 by the clear language of the article states that a claim for a relative nullity "may be invoked only by those persons for whose interest the ground for nullity was established." Thus, the proper party to invoke that the settlement agreement is null and void due to BB's lack of consent is BB who is not a party to this litigation. Thus, exception is granted and plaintiffs are given 15 days to remove said objection.

9.) Non-Joinder:

9a.) Tortuga defendants contend that the claim that the settlement which compromised BB can't be enforced due to BB's alleged lack of consent (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said agreement has not been joined as a party.

Exception of non-joinder as to BB is granted and plaintiffs are given 15 days to remove said objection. The court finds that BB is an indispensable party and must be joined. The settlement was effected to end litigation that lasted several years. The release required the defendants to pay a large sum of money to BB which was paid and received. If the plaintiffs were to prevail and undo the settlement, that sum of money paid to BB would have to be returned to the defendants. Without BB added as a party this court would be without authority to order BB to return the funds paid by defendants.

9b.) Tortuga defendants contend claim that option is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said option and all of the grantees to said option have not been joined as a party.

Exception of non-joinder regarding BB is granted and plaintiff is given 15 days to amend. BB's presence in this case is critical to the allegations that the option is null and void and must be added as a party.

Exception of non-joinder regarding grantees of option not named is denied as moot. Plaintiffs have amended petition to add the grantees to this lawsuit.

10.) Prescription

10a.) Tortuga defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) as alleged in Original Petition and 1st, 2nd, and 3rd Supplemental Amending Petition based on tort theories of liability which prescribe one year from their discovery under C.C. art. 3493 are prescribed as said claims were obviously "discovered" at the time of filing of BBI and BBII.

Exception of prescription is denied. Plaintiffs have alleged that they discovered the alleged environmental damage (count 1) and subsurface damage (count 6) in 2003 and 2004 and thus on the face of the petition are not prescribed. Thus defendants have failed to sustain their burden of the proof to show petition is prescribed on its face and thus the burden doesn't shift to plaintiff to show interruption or suspension.

10b.) Tortuga defendants contend that claim for a declaration that the option is null and void (count 2) in 3rd Amended Petition, for lack of consent due to BB's error (a relative nullity) is prescribed because such claim prescribed 5 years from when the alleged error should have been discovered.

Exception of prescription is granted in part and denied in part.

Granted as to relative nullity claim (lack of consent). The plaintiffs clearly discovered the alleged error over 5 years ago since this same argument was made in BBII. Since the claim is prescribed on its face, the burden shifts to plaintiff to prove interruption or suspension. Plaintiffs don't argue interruption or suspension but rather contend that per C.C. art. 2032, nullity may be raised at any time as a defense against an action on the contract even after the action for annulment has prescribed. Specifically plaintiffs contend that in response to this suit, defendants sent letter purporting to exercise option and ordered plaintiffs to complete sale. As a result of this demand, plaintiffs amended suit to seek declaratory judgment to the effect that this demand was barred under LA law. Thus, it appears by plaintiffs own memo, this issue was raised as a defense even though the claim is clearly prescribed as any error should have been discovered at time of execution of settlement documents, including option.

Denied as to absolute nullity claim (C.C.P. art. 1426 -option). The plaintiffs have alleged allegations of concealment of public hazard under C.C.P. art. 1426(D) & (E) sufficiently in the petition. This claim would fall under the absolute nullity category and is thus not susceptible to prescription. An absolute nullity may be raised anytime and doesn't prescribe. Thus on the face of plaintiffs petition this claim is not prescribed and defendants failed to sustain their burden of proof.

Denied as to absolute nullity claim (C.C.P. art. 1426). An absolute nullity claim does not prescribe thus on the face of the petition this claim is not prescribed.

10c.) Tortuga defendants contend claim in 3rd Amended Petition, that settlement agreement is relatively null is prescribed.

Exception of prescription is granted in part and denied in part for the same reasons stated in Prescription section #10b. above.

10d.) Tortuga defendants contend that claims for royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are prescribed to the extent said claim seeks royalties exceeding 3 years which prescribe in 3 years under C.C. art. 3494.

Exception of prescription is granted and plaintiffs are not entitled to seek royalties exceeding 3 years prior to filing of petition. Plaintiffs contend that they are not barred by the 3 year period because under the doctrine of *contra non valentum* they didn't know and couldn't have known of defendants royalty underpayments until the 2003 audit. Plaintiffs allege that defendants concealed the underpayments. Defendants showed the petition is prescribed on its face as to those claims for royalties beyond three years. The burden then shifted to plaintiff to show that the doctrine of *contra non valentum* prevented the running of prescription. Under discovery rule of *contra non valentum*

a plaintiff is deemed to know that which he could have learned from reasonable diligence. After review of arguments the court does not find that the doctrine applies to the facts of this case. Plaintiffs contend that didn't know or couldn't have known until the 2003 audit. A simple audit of the royalties lead plaintiffs to believe underpayment in royalties, thus the plaintiffs could have learned from reasonable diligence prior to 2003 of any alleged underpayments. Plaintiffs have failed to show why no reasonable, diligent steps were taken prior to audit to keep abreast on the payment of royalties. Exception is granted to the extent that doctrine of *contra non valentum* doesn't apply and any claims by plaintiffs that exceed 3 years prior to filing of petition are prescribed.

10e.) Tortuga defendants contend claims in 3rd Amended Petition, for environmental contamination allegedly due to contamination of adjacent properties is prescribed.

Exception of prescription is denied. Plaintiffs have alleged that the contamination occurred in 2003 and 2004 and thus their claim is not prescribed on its face and the burden doesn't shift to the plaintiff.

11.) Motion for Protective Order

11a.) Tortuga defendants contend that the court should stay or issue protective order on discovery requests pending outcome of this case as the exceptions are designed to eliminate some of the discovery requests.

Motion for Protective Order under C.C.P. art. 1426 is granted to the extent that the defendants are given 30 days from date of this judgment to comply with discovery requests in conjunction with the decision of the court regarding the above exceptions.

12.) Motion to Strike Allegations of Extortion from ¶58 of plaintiffs 1st Amended and Restated Petition:

- Motion to Strike is denied as Moot as the allegation is withdrawn from petition at day of hearing.

Exceptions by Linder Defendants

1.) Res Judicata:

1a.) Linder defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition and 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, for events which occurred before settlement of Betty Blanchard I (hereinafter "BBI") are barred by exception of res judicata because such claims were released in BBI. Linder specifically argues that although not a party to prior

litigations, it is a limited “successor” to certain rights of Tortuga defendants and is also entitled to legal effects of res judicata:

Exception is granted in part and denied in part. (See reasons Tortuga defendants Res Judicata #1a above). In this case, Linder defendants contend limited “successors” to Tortuga defendants and the documents executed in settlement apply to successors, which plaintiffs don’t deny Linder is a successor. Thus, only those claims actually contained within pleadings of BBI are barred under res judicata, and it applies to the Linder defendants for res judicata purposes as a limited successor.

1b.) Linder defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and Third Amended Petition, for events which occurred between the settlement of BBI and the filing of Betty Blanchard II (hereinafter “BBII”) are barred by the exception of res judicata because such claims were and/or could have been brought in BBII and as limited successors they are entitled to the effects of res judicata in their favor.

Exception of Res Judicata does not apply to these causes of action. (See reasons for denial Tortuga defendants Res Judicata #1a above).

1c.) Linder defendants contend that claims for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred before the settlement of BBI are barred by exception of res judicata because such claims were released in BBI and as a limited successor to Tortuga defendants they are entitled to effects of res judicata.

These claims were not released in BBI and are not subject to res judicata. (See reasons for denial Tortuga defendants Res Judicata #1c above).

1d.) Linder defendants contend that claim for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred between the settlement of BBI and BBII are barred by res judicata because of the judgment rendered in BBII and as a limited successor to Tortuga defendants, it is entitled to the res judicata effect.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1e.) Linder defendants contend that claim that settlement agreement which compromised BBI is unenforceable (count 1) in Third Amended Petition is barred by res judicata based on the judgment rendered in BBII and as a limited successor of Tortuga defendants, it is entitled to the effects of res judicata.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1f.) Linder defendants contend that claims for attempted forfeiture (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, seeking to have the option to purchase declared invalid and unenforceable is barred by res judicata because such claims were and/or could have been brought in BBII and as a limited successor to the Tortuga defendants, it is entitled to the effects of res judicata.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1g.) Linder defendants contend that claim for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, for alleged non-payment of royalties due before the filing of BBII is barred by res judicata because such claims could have been brought in BBII and as a limited successor to Tortuga defendants it is entitled to the effects of res judicata.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b).

1h.) Linder defendants contend that claim for demand of release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is barred by res judicata because such claims could have been brought in BBII and as a limited successor to Tortuga defendants it is entitled to the effects.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b).

1i.) Linder defendants contend that claims for environmental damage (count 1) Third Amended Petition, allegedly due to contamination from properties adjacent to PP are barred by res judicata based on resolution and settlement of BBI and as a limited successor to the Tortuga defendants, it is entitled to the preclusive effects of res judicata.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1c above).

1j.) Linder defendants contend that claims for environmental damage (count 1) in Third Amended Petition allegedly due to contamination from properties adjacent to PP are barred by res judicata based on the resolution of BBII and as a limited successor to the Tortuga defendants it is entitled to the preclusive effects of res judicata.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

2.) Lack of Subject Matter Jurisdiction

2a.) Linder defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd

Amended Petition, and Third Amended Petition are not properly before this court because the LA Department of Natural resources, Office of Conservation ("LOC") has primary jurisdiction over these claims.

Exception is denied. (See reasons for denial Tortuga defendants Subject Matter Jurisdiction #2a above).

3.) Prematurity

3a.) Linder defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, are premature because plaintiffs have failed to exhaust their administrative remedies before the LOC.

Exception of Prematurity is denied. (See reasons for denial Tortuga defendants Subject Matter Jurisdiction #2a above).

3b.) Linder defendants contend that claims for remediation of PP based on claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition are premature because the duty to restore does not arise until after the lease has expired.

Exception of prematurity is denied in part and granted in part. (See reasons Tortuga defendants Prematurity #3b above).

3c.) Linder defendants contend claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is premature because no drainage has taken place as required on PP.

Exception of prematurity is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

3d.) Linder defendants contend that claims for remediation of PP based on claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition are premature because the remediation of those alleged environmental damages should be addressed by the appropriate government agencies (ie: LOC) rather than by this court.

Exception of Prematurity is denied. (See reasons for denial Tortuga defendants Subject Matter Jurisdiction #2a above).

4.) Improper Venue:

4a.) Linder defendants contend that claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, is not in the proper venue because said claim constitutes an impermissible collateral attack on an order issued or to be issued by the LOC and actions challenging such orders must be brought in the 19th JDC for the East Baton Rouge Parish pursuant to R.S. 30:12.

Exception of Improper Venue is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

5.) Vagueness

5a.) Linder defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition and 3rd Amended Petition are vague because the allegations fail to specify with sufficient detail the particulars of the alleged contamination.

Exception of vagueness is denied. (See reasons for denial Tortuga defendants Vagueness #5a above).

5b.) Linder defendants contend claims for environmental damage (count 1) in 3rd Amended Petition, allegedly due to contamination from properties adjacent to PP as said claims fail to allege when contamination on neighboring properties occurred, the specific locations on the neighboring properties where such alleged contamination occurred and when and how such alleged contamination migrated onto PP and also fail to specify what portion of the alleged contamination on PP that allegedly migrated from offsite is attributable to which defendant.

Exception of vagueness is granted but the plaintiff is given 15 days to amend to remove the objection, if possible.

6.) Improper Cumulation of Actions:

6a.) Linder defendants contend that claims for demand for release of acreage (count 4) and for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, to the extent they seek dissolution of the lease are improperly cumulated with the claim for drainage (count 5) and the claims for demand for release of acreage to the extent these claims seek performance under the lease and require defendants to be put on notice of default.

Exception is denied in part and granted in part. (See reasons Tortuga defendants Improper Cumulation of Actions #6a above).

6b.) Linder defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) based on alleged contamination migrating from properties neighboring PP, in 3rd Amended Petition, have been improperly cumulated with the present case because these claims are unrelated to plaintiffs claims for environmental contamination allegedly resulting from defendant's operations on PP and present separate claims against separate defendants on the respective adjoining properties.

Exception of improper cumulation is granted and plaintiff is given 15 days to remove the objection, if possible. (See reasons Tortuga defendants Improper Cumulation of Actions #6b above).

7.) No Cause of Action

7a.) Linder defendants contend that claim for potential drainage (count 5) in the Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails to state a cause of action because LA law does not recognize a claim for potential drainage, only actual drainage.

Exception of no cause of action is denied as moot. Plaintiff conceded that claim was premature and withdrew claim at the hearing.

7b.) Linder defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising before settlement of BBI fail to state a cause of action because said claims are released.

Exception of no cause of action is granted in part and denied in part. (See reasons Tortuga defendants No Cause of Action #7a above).

7c.) Linder defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising after the settlement for BBI fail to state a cause of action because said claims are to be assigned to defendants under the option to purchase.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7b above).

7d.) Linder defendants contend claim for remediation of PP based on claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fail to state a cause of

action because the duty to repair the leased property doesn't arise until the lease expires.

Granted in part and denied in part. (See reasons Tortuga defendants No Cause of Action #7c above).

7e.) Linder defendants contend claim for unjust enrichment for the alleged unauthorized disposal on PP of waste based on claim for environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because other legal remedies exist at law.

Exception of no cause of action is granted. (See reasons Tortuga defendants No Cause of Action #7d above).

7f.) Linder defendants contend claim for punitive damages under C.C. art. 2315.3 based on environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because this statute was repealed in 1996 and any such claim prior to that date was compromised in the settlement of BBI in 1986.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7e above).

7g.) Linder defendants contend that claim for in solido liability for all defendants based on claims for environmental damage (count 1) and subsurface damage (count 6) in 3rd Amended Petition resulting from migration of alleged migration of alleged contamination from properties neighboring PP fails to state a cause of action because in solido liability is not applicable.

Exception of no cause of action is granted and plaintiff is given 15 days to remove said objection, if possible. The 3rd Amended Petition fails to state a cause of action that all defendants are liable in solido.

7h.) Tortuga defendants contend that claim for a declaration that the option to purchase is null & void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, as a prohibited transfer of a future thing fails to state a cause of action because future things may be the object of a contract under C.C. art. 1976 and the object of a contract may be that a third party will incur an obligation or render a performance under C.C. art. 1977.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7g above).

7i.) Linder defendants contend that the claim for a declaration that the option to purchase is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition for lesion fails to state a cause of action because the option is part of the settlement documents which compromised BBI and can't be voided for lesion under C.C. art. 3078.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7h above).

7j.) Linder defendants contend claim for release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, which seeks to dissolve the oil and gas lease on PP based on development demand fails to state a cause of action because such demand can't be coupled with demands for lease cancellation.

Exception is granted. (See reasons Tortuga defendants Improper Cumulation of Actions #6a above)

8.) No Right of Action:

8a.) Linder defendants contend that plaintiffs have no right of action regarding claim that the settlement is null and void due to BB's lack of consent (count 1) in 3rd Amended Petition, because only BB may seek rescission based on such relative nullity.

Exception of No Right of Action is granted in part and denied in part. (See reasons Tortuga defendants No Right of Action #8a above).

9.) Non-Joinder:

9a.) Linder defendants contend that the claim that the settlement which compromised BB can't be enforced due to BB's alleged lack of consent (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said agreement has not been joined as a party.

Exception is granted. (See reasons Tortuga defendants Non-Joinder #9a above).

9b.) Linder defendants contend claim that option is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said option and all of the grantees to said option have not been joined as a party.

Exception is granted in part and denied in part. (See reasons Tortuga defendants Non-Joinder #9b above).

10.) Prescription

10a.) Linder defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) as alleged in Original Petition and 1st, 2nd, and 3rd Supplemental Amending Petition based on tort theories of liability which prescribe one year from their discovery under C.C. art. 3493 are prescribed as said claims were obviously “discovered” at the time of filing of BBI and BBII.

Exception of prescription is denied. (See reasons for denial Tortuga defendants Prescription #10a above).

10b.) Linder defendants contend that claim for a declaration that the option is null and void (count 2) in 3rd Amended Petition, for lack of consent due to BB’s error (a relative nullity) is prescribed because such claim prescribed 5 years from when the alleged error should have been discovered.

Exception of prescription is granted in part and denied in part. (See reasons Tortuga defendants Prescription #10b above).

10c.) Linder defendants contend claim in 3rd Amended Petition, that settlement agreement is relatively null is prescribed.

Exception of prescription is granted in part and denied in part. (See reasons Tortuga defendants Prescription #10b above).

10d.) Linder defendants contend that claims for royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are prescribed to the extent said claim seeks royalties exceeding 3 years which prescribe in 3 years under C.C. art. 3494.

Exception of prescription is granted and plaintiffs are not entitled to seek royalties exceeding 3 years prior to filing of petition. (See reasons Tortuga defendants Prescription #10d above).

10e.) Linder defendants contend claims in 3rd Amended Petition, for environmental contamination allegedly due to contamination of adjacent properties is prescribed.

Exception of prescription is denied. (See reasons for denial Tortuga defendants Prescription #10e above).

11.) Motion for Protective Order

11a.) Linder defendants contend that the court should stay or issue protective order on

discovery requests pending outcome of this case as the exceptions are designed to eliminate some of the discovery requests.

Motion for Protective Order under C.C.P. art. 1426 is granted to the extent that the defendants are given 30 days from date of this judgment to comply with discovery requests in conjunction with the decision of the court regarding the above exceptions.

12.) Motion to Strike Allegations of Extortion from ¶58 of plaintiffs 1st Amended and Restated Petition:

- Motion to Strike is denied as Moot as the allegation is withdrawn from petition at day of hearing.

**Exceptions by Atlantic Refining Company
(now BP Amoco - successor in interest) defendants**

1.) Res Judicata

1a.) BP Amoco contends claims for environmental damage (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, for events which occurred before settlement of BBI are barred by res judicata because such claims were released in BBI. BP Amoco contends as successor in interest it is entitled to the effects of res judicata.

Exception is granted in part and denied in part. (See reasons Linder defendants Res Judicata #1a above). In this case, BP Amoco defendants are successors in interest to Atlantic Refining Company and the documents executed in settlement apply to successors, which plaintiffs don't deny BP Amoco is a successor in interest. Thus, only those claims actually contained within pleadings of BBI are barred under res judicata, and it applies to the BP Amoco defendants for res judicata purposes as a successor in interest.

1b.) BP Amoco contends claims for environmental damage (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, for events which occurred between the settlement of BBI and the filing of BBII are barred by res judicata because such claims were and/or could have been brought in BBII. BP Amoco contends as successors in interest it is entitled to the effects of res judicata.

Exception of Res Judicata does not apply to these causes of action. (See reasons for denial Tortuga defendants Res Judicata #1b above).

2.) Prescription:

2a.) BP Amoco contends claims for environmental damage to immovable property (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are subject to a one year prescriptive period and are barred by prescription because in BBI and BBII plaintiffs or their predecessors admitted knowledge of alleged environmental damage.

Exception of prescription is denied. (See reasons for denial Tortuga defendants Prescription #10a above).

3.) No Right of Action:

3a.) BP Amoco contends claims that in BBI, plaintiffs or their predecessors agreed to make the option to purchase part of the settlement documents and in BBII the federal court addressed the validity of the option in favor of defendants. The Tortuga defendants have exercised its right to purchase the 150 acre tract and non-released environmental damage claims and upon transfer of such to Tortuga defendants, the plaintiffs will have no right to prosecute a claim for environmental damages.

Exception of no right of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7b above).

4.) No Cause of Action:

4a.) BP Amoco contends while it has yet to exercise its right to purchase under the option, BP Amoco adopts the argument of Tortuga defendants as it pertains to assignment of the environmental damage claims by plaintiffs; plaintiffs claims regarding nullity of the option; lack of legal efficacy of the option; and lesionary nature of the option. Thus claim plaintiffs have no cause of action.

Exception is denied. (See reasons for denial Tortuga defendants No Cause of Action - #7b; #7h)

5.) Lack of Subject Matter Jurisdiction:

5a.) BP Amoco contends that this court lacks subject matter jurisdiction over plaintiffs environmental damage claims (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, as this court should defer to the LDEQ's primary jurisdiction over remediation issues.

Exception is denied (see reasons for denial Tortuga defendants Lack of Subject Matter Jurisdiction - #2a. Same reasoning applies even though BP Amoco allege LDEQ has primary

jurisdiction)

6.) Prematurity:

6a.) BP Amoco contends that claims of environmental damage (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are premature as this court should defer the issue of remediation to the LDEQ under primary jurisdiction doctrine.

Exception is denied (See reasons for denial Tortuga defendants Lack of Subject Matter Jurisdiction - #2a. Same reasoning applies even though BP Amoco allege LDEQ has primary jurisdiction)

7.) Nonconformity of Petition with any of the requirements of Article 891

7a.) BP Amoco contends plaintiffs petitions contain overbroad and conclusory allegations; omit material facts; and fail to describe the wrongful activities or conduct in which BP Amoco engaged and when this occurred. Specifically, petitions contain only non-specific allegations that BP Amoco owns property adjacent to PP and that environmental contamination may exist thereon, thus plaintiffs should be ordered to amend their petitions to include more specific facts.

Exception is granted but plaintiffs are given 15 days to amend to remove said objection, if possible.

8.) Vagueness and Ambiguity

8a.) No Memo of authorities on this issue

Exception is denied.

Exceptions filed by Allain Land defendants

1.) Res Judicata:

1a.) Allain defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition and 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, for events which occurred before settlement of Betty Blanchard I (hereinafter "BBI") are barred by exception of res judicata because such claims were released in BBI:

Exception of res judicata is denied. While this exception has been granted in part as to some of the named defendants because those claims for environmental damage (count 1) and for

subsurface damage (count 6) for events which occurred before the settlement of BBI and were actually plead in BBI even though such claims were released in BBI, it is denied to Allain Land defendants. The release is binding upon "the executors, administrators, personal representatives, heirs, successors, and assigns of Petitioners." Park Plantation L.L.C. (hereinafter "PP L.L.C.") and Nancy Blanchard (hereinafter "NB") are part owners of Park Plantation (hereinafter "PP") and are the successors/assigns of Betty Blanchard (hereinafter "BB") as to PP as evidenced by the pleadings advanced by these plaintiffs concerning the same transactions or occurrences. Prior to the 1991 amendment, res judicata only barred those claims actually contained within the pleadings of the prior case. Thus, only those claims actually contained within pleadings of BBI are barred as some of the defendants. However, Allain Land defendants were not part of BBI settlement and have not alleged how they are entitled to the effects of res judicata. Thus, Allain Land defendants are not entitled to res judicata effect as to this claim, even though some defendants are entitled to this preclusive effect. Additionally, it is noted by the court that plaintiffs have alleged that the claims in count 1 and count 6 were discovered in 2003 and 2004 and therefore on the face of the petition these alleged claims were not made in BBI and are not barred by the pre-1991 res judicata law in effect.

Exception is denied as to the rest of the acres involved (See reasons for denial Tortuga defendants Res Judicata #1a above).

1b.) Allain Land, defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and Third Amended Petition, for events which occurred between the settlement of BBI and the filing of Betty Blanchard II (hereinafter "BBII") are barred by the exception of res judicata because such claims were and/or could have been brought in BBII.

Exception of Res Judicata does not apply to these causes of action. (See reasons for denial Tortuga defendants Res Judicata #1b)

1c.) Allain Land defendants contend that claims for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred before the settlement of BBI are barred by exception of res judicata because such claims were released in BBI.

These claims were not released in BBI and are not subject to res judicata. (See reasons for denial Tortuga defendants Res Judicata #1c).

1d.) Allain Land defendants contend that claim for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred between the settlement of BBI and BBII are barred by res judicata because of the judgment rendered in BBII

Claim for punitive damages for events which occurred between BBI and BBII are not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1e.) Allain Land defendants contend that claim that settlement agreement which compromised BBI is unenforceable (count 1) in Third Amended Petition is barred by res judicata based on the judgment rendered in BBII.

This claim is not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1f.) Allain Land defendants contend that claims for attempted forfeiture (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, seeking to have the option to purchase declared invalid and unenforceable is barred by res judicata because such claims were and/or could have been brought in BBII.

Again, this claim is not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1g.) Allain Land defendants contend that claim for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, for alleged non-payment of royalties due before the filing of BBII is barred by res judicata because such claims could have been brought in BBII.

Exception of res judicata does not bar this claim. (See reasons for denial Tortuga defendants Res Judicata #1b).

1h.) Allain Land defendants contend that claim for demand of release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is barred by res judicata because such claims could have been brought in BBII.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b).

1i.) Allain Land defendants contend that claims for environmental damage (count 1) Third Amended Petition, allegedly due to contamination from properties adjacent to PP are barred by res judicata based on resolution and settlement of BBI.

These claims were not released in BBI and are not subject to res judicata. (See reasons for denial Tortuga defendants Res Judicata #1c above).

1j.) Allain Land defendants contend that claims for environmental damage (count 1) in Third

Amended Petition allegedly due to contamination from properties adjacent to PP are barred by res judicata based on the resolution of BBII.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b).

2.) Lack of Subject Matter Jurisdiction

2a.) Allain Land defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and Third Amended Petition are not properly before this court because the LA Department of Natural resources, Office of Conservation ("LOC") has primary jurisdiction over these claims.

Exception is denied. (See reasons for denial Tortuga defendants Lack of Subject Matter Jurisdiction #2a above).

2b.) Allain Land defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are not properly before this court because the LDEQ has primary jurisdiction over these claims.

Exception is denied. (See reasons for denial Tortuga defendants Lack of Subject Matter Jurisdiction #2a above).

3.) Prematurity

3a.) Allain Land defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, are premature because plaintiffs have failed to exhaust their administrative remedies before the LOC.

Exception of Prematurity is denied. (See reasons for denial Tortuga defendants Lack of Subject Matter Jurisdiction #2a above).

3b.) Allain Land defendants contend that claims for remediation of PP based on claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition are premature because the duty to restore does not arise until after the lease has expired.

Exception of prematurity is denied in part and granted in part. (See reasons Tortuga defendants Prematurity #3b above).

3c.) Allain Land defendants contend claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is premature because no drainage has taken place as required on PP.

Exception of prematurity is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

3d.) Allain Land defendants contend claim for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, are premature because plaintiffs have failed to exhaust their administrative remedies before the LDEQ.

Exception of Prematurity is denied. (See reasons for denial Tortuga defendants Lack of Subject Matter Jurisdiction #2a above).

4.) Improper Venue:

4a.) Allain Land defendants contend that claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, is not in the proper venue because said claim constitutes an impermissible collateral attack on an order issued or to be issued by the LOC and actions challenging such orders must be brought in the 19th JDC for the East Baton Rouge Parish pursuant to R.S. 30:12.

Exception of Improper Venue is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

5.) Vagueness

5a.) Allain Land defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition and 3rd Amended Petition are vague because the allegations fail to specify with sufficient detail the particulars of the alleged contamination specifically said claims fail to allege the events or acts that allegedly caused the contamination

Exception of vagueness is denied. (See reasons for denial Tortuga Vagueness #5a above).

5b.) Allain Land defendants contend claims for environmental damage (count 1) in 3rd Amended Petition, allegedly due to contamination from properties adjacent to PP as said claims fail to allege when contamination on neighboring properties occurred, the specific locations on the neighboring properties where such alleged contamination occurred and when and how such alleged contamination migrated onto PP and also fail to specify what portion of

the alleged contamination on PP that allegedly migrated from offsite is attributable to which defendant.

Exception of vagueness is granted but the plaintiff is given 15 days to amend to remove the objection, if possible.

6.) Improper Cumulation of Actions:

6a.) Allain Land defendants contend that claims for demand for release of acreage (count 4) and for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, to the extent they seek dissolution of the lease are improperly cumulated with the claim for drainage (count 5) and the claims for demand for release of acreage to the extent these claims seek performance under the lease and require defendants to be put on notice of default.

Exception of Improper Cumulation of Actions is granted in part and denied in part. (See reasons Tortuga defendants Improper Cumulation of Actions # 6a above).

6b.) Allain Land defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) based on alleged contamination migrating from properties neighboring PP, in 3rd Amended Petition, have been improperly cumulated with the present case because these claims are unrelated to plaintiffs claims for environmental contamination allegedly resulting from defendant's operations on PP and present separate claims against separate defendants on the respective adjoining properties.

Exception of improper cumulation is granted and plaintiff is given 15 days to remove the objection, if possible. (See reasons Tortuga defendants Improper Cumulation of Actions #6b).

7.) No Cause of Action

7a.) Allain Land defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising before settlement of BBI fail to state a cause of action because said claims are released.

Exception of no cause of action is denied. (See reasons for denial Allain Land defendants Res Judicata #1a above).

7b.) Allain Land defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising after the settlement for BBI fail to state

a cause of action because said claims are to be assigned to defendants under the option to purchase.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7b).

7c.) Allain Land defendants contend claim for remediation of PP based on claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fail to state a cause of action because the duty to repair the leased property doesn't arise until the lease expires.

Granted in part and denied in part. (See reasons Tortuga defendants No Cause of Action #7c).

7d.) Allain Land defendants contend claim for unjust enrichment for the alleged unauthorized disposal on PP of waste based on claim for environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because other legal remedies exist at law.

Exception of no cause of action is granted. (See reasons Tortuga defendants No Cause of Action #7d).

7e.) Allain Land defendants contend claim for punitive damages under C.C. art. 2315.3 based on environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because this statute was repealed in 1996 and any such claim prior to that date was compromised in the settlement of BBI in 1986.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7e).

7f.) Allain Land defendants contend that claim for in solido liability for all defendants based on claims for environmental damage (count 1) and subsurface damage (count 6) in 3rd Amended Petition resulting from migration of alleged migration of alleged contamination from properties neighboring PP fails to state a cause of action because in solido liability is not applicable.

Exception of no cause of action is granted and plaintiff is given 15 days to remove said objection, if possible. (See reasons Tortuga defendants No Cause of Action #7f).

7g.) Allain Land defendants contend that claim for a declaration that the option to purchase is null & void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended

Petition, and 3rd Amended Petition, as a prohibited transfer of a future thing fails to state a cause of action because future things may be the object of a contract under C.C. art. 1976 and the object of a contract may be that a third party will incur an obligation or render a performance under C.C. art. 1977.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7g).

7h.) Allain Land defendants contend that the claim for a declaration that the option to purchase is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition for lesion fails to state a cause of action because the option is part of the settlement documents which compromised BBI and can't be voided for lesion under C.C. art. 3078.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7h).

7i.) Allain Land defendants contend claim for release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, which seeks to dissolve the oil and gas lease on PP based on development demand fails to state a cause of action because such demand can't be coupled with demands for lease cancellation.

Exception is granted. (See reasons Tortuga defendants Improper Cumulation of Actions #6a above).

7j.) Allain Land defendants contend claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails to state a cause of action because LA law doesn't recognize a claim for potential drainage, only actual drainage.

Exception of no cause of action is denied as moot. Plaintiff conceded that claim was premature and withdrew claim at the hearing.

8.) No Right of Action:

8a.) Allain Land defendants contend that plaintiffs have no right of action regarding claim that the settlement is null and void due to BB's lack of consent (count 1) in 3rd Amended Petition, because only BB may seek rescission based on such relative nullity.

Exception of No Right of Action is granted in part and denied in part. (See reasons Tortuga defendants No Right of Action #8a).

9.) Non-Joinder:

9a.) Allain Land defendants contend that the claim that the settlement which compromised BB can't be enforced due to BB's alleged lack of consent (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said agreement has not been joined as a party.

Exception is granted. (See reasons Tortuga defendants Non-Joinder #9a above).

9b.) Allain Land defendants contend claim that option is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said option and all of the grantees to said option have not been joined as a party.

Exception is granted in part and denied in part. (See reasons Tortuga defendants Non-Joinder #9b above)

10.) Prescription

10a.) Allain Land defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) as alleged in Original Petition and 1st, 2nd, and 3rd Supplemental Amending Petition based on tort theories of liability which prescribe one year from their discovery under C.C. art. 3493 are prescribed as said claims were obviously "discovered" at the time of filing of BBI and BBII.

Exception of prescription is denied. (See reasons for denial Tortuga defendants Prescription #10a.)

10b.) Allain Land defendants contend that claim for a declaration that the option is null and void (count 2) in 3rd Amended Petition, for lack of consent due to BB's error (a relative nullity) is prescribed because such claim prescribed 5 years from when the alleged error should have been discovered.

Exception of prescription is granted in part and denied in part. (See reasons Tortuga defendants Prescription #10b).

10c.) Allain Land defendants contend claim in 3rd Amended Petition, that settlement agreement is relatively null is prescribed.

Exception of prescription is granted in part and denied in part. (See reasons Tortuga defendants Prescription #10b above).

10d.) Allain Land defendants contend that claims for royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are prescribed to the extent said claim seeks royalties exceeding 3 years which prescribe in 3 years under C.C. art. 3494.

Exception of prescription is granted and plaintiffs are not entitled to seek royalties exceeding 3 years prior to filing of petition. (See reasons Tortuga defendants Prescription #10d above).

10e.) Allain Land defendants contend claims in 3rd Amended Petition, for environmental contamination allegedly due to contamination of adjacent properties is prescribed.

Exception of prescription is denied. (See reasons for denial Tortuga defendants Prescription #10e above).

11.) Nonconformity of Petition with any of the requirements of Article 891

11a.) Allain Land contends plaintiffs petitions contain overbroad and conclusory allegations; omit material facts; and fail to describe the wrongful activities or conduct in which BP Amoco engaged and when this occurred. Specifically, petitions contain only non-specific allegations that Allain Land owns property adjacent to PP and that environmental contamination may exist thereon, thus plaintiffs should be ordered to amend their petitions to include more specific facts.

Exception is granted but plaintiffs are given 15 days to amend to remove said objection, if possible.

Exceptions filed by Marathon Oil Co (successor to TXO Production Co.)

1.) Res Judicata:

1a.) Marathon defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition and 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, for events which occurred before settlement of Betty Blanchard I (hereinafter "BBI") are barred by exception of res judicata because such claims were released in BBI. Marathon specifically argues that although not a party to prior litigations, it is a successor to certain rights of TXO Production Co. defendants and is also entitled to legal effects of res judicata:

Exception is granted in part and denied in part. (See reasons in Linder defendants Res Judicata #1a above).

1b.) Marathon defendants contend that claims for environmental damage (count 1) and

subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and Third Amended Petition, for events which occurred between the settlement of BBI and the filing of Betty Blanchard II (hereinafter "BBII") are barred by the exception of res judicata because such claims were and/or could have been brought in BBII and as successor they are entitled to the effects of res judicata in their favor.

Exception of Res Judicata does not apply to these causes of action. (See reasons for denial Linder defendants Res Judicata #1b above).

1c.) Marathon defendants contend that claims for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred before the settlement of BBI are barred by exception of res judicata because such claims were released in BBI and as a successor to TXO Production Co. defendants they are entitled to effects of res judicata.

These claims were not released in BBI and are not subject to res judicata. (See reasons for denial Tortuga defendants Res Judicata #1c above).

1d.) Marathon defendants contend that claim for punitive damages under C.C. art. 2315.3 (count 1) in Third Amended Petition, for events which occurred between the settlement of BBI and BBII are barred by res judicata because of the judgment rendered in BBII and as a successor to TXO Production Co. defendants, it is entitled to the res judicata effect.

Claim for punitive damages for events which occurred between BBI and BBII are not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1e.) Marathon defendants contend that claim that settlement agreement which compromised BBI is unenforceable (count 1) in Third Amended Petition is barred by res judicata based on the judgment rendered in BBII and as a successor of TXO Production Co. defendants, it is entitled to the effects of res judicata.

This claim is not barred by res judicata. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1f.) Marathon defendants contend that claims for attempted forfeiture (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, seeking to have the option to purchase declared invalid and unenforceable is barred by res judicata because such claims were and/or could have been brought in BBII and as a successor to TXO Production Co. defendants, it is entitled to the effects of res judicata.

Again, this claim is not barred by res judicata. (See reasons for denial Tortuga defendants

Res Judicata #1b above).

1g.) Marathon defendants contend that claim for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, for alleged non-payment of royalties due before the filing of BBII is barred by res judicata because such claims could have been brought in BBII and as a successor to TXO Production Co. defendants it is entitled to the effects of res judicata.

Exception of res judicata does not bar this claim. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1h.) Marathon defendants contend that claim for demand of release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is barred by res judicata because such claims could have been brought in BBII and as a successor to TXO Production Co. defendants it is entitled to the effects.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

1i.) Marathon defendants contend that claims for environmental damage (count 1) Third Amended Petition, allegedly due to contamination from properties adjacent to PP are barred by res judicata based on resolution and settlement of BBI and as a successor to TXO Production Co. defendants, it is entitled to the preclusive effects of res judicata.

These claims were not released in BBI and are not subject to res judicata. (See reasons for denial Tortuga defendants Res Judicata #1c above).

1j.) Marathon defendants contend that claims for environmental damage (count 1) in Third Amended Petition allegedly due to contamination from properties adjacent to PP are barred by res judicata based on the resolution of BBII and as a successor to TXO Production Co. defendants it is entitled to the preclusive effects of res judicata.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #1b above).

2.) Lack of Subject Matter Jurisdiction

2a.) Marathon defendants contend that claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and Third Amended Petition are not properly before this court because the LA Department of Natural resources, Office of Conservation ("LOC") has primary jurisdiction over these claims.

Exception is denied. (See reasons for denial Tortuga defendants Res Judicata #2a above).

3.) Prematurity

3a.) Marathon defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, are premature because plaintiffs have failed to exhaust their administrative remedies before the LOC.

Exception of Prematurity is denied. (See reasons Tortuga defendants Lack of Subject Matter Jurisdiction #2a above).

3b.) Marathon defendants contend that claims for remediation of PP based on claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition are premature because the duty to restore does not arise until after the lease has expired.

Exception of prematurity is denied in part and granted in part. (See reasons in Tortuga defendants Prematurity #3b above).

3c.) Marathon defendants contend claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, is premature because no drainage has taken place as required on PP.

Exception of prematurity is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

3d.) Marathon defendants contend that claims for remediation of PP based on claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition are premature because the remediation of those alleged environmental damages should be addressed by the appropriate government agencies (ie: LOC) rather than by this court.

Exception of Prematurity is denied. (See reasons for denial Tortuga defendants Lack of Subject Matter Jurisdiction #2a above).

4.) Improper Venue:

4a.) Marathon defendants contend that claim for potential drainage (count 5) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, 3rd Amended Petition, is not in the proper venue because said claim constitutes an impermissible collateral attack on an

order issued or to be issued by the LOC and actions challenging such orders must be brought in the 19th JDC for the East Baton Rouge Parish pursuant to R.S. 30:12.

Exception of Improper Venue is denied as moot. Plaintiff stipulated at the hearing that drainage claims are moot and withdrew any such claim.

5.) Vagueness

5a.) Marathon defendants contend claims for environmental damage (count 1) and for subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition and 3rd Amended Petition are vague because the allegations fail to specify with sufficient detail the particulars of the alleged contamination.

Exception of vagueness is denied. (See reasons for denial Tortuga defendants Vagueness #5a above).

5b.) Marathon defendants contend claims for environmental damage (count 1) in 3rd Amended Petition, allegedly due to contamination from properties adjacent to PP as said claims fail to allege when contamination on neighboring properties occurred, the specific locations on the neighboring properties where such alleged contamination occurred and when and how such alleged contamination migrated onto PP and also fail to specify what portion of the alleged contamination on PP that allegedly migrated from offsite is attributable to which defendant.

Exception of vagueness is granted but the plaintiff is given 15 days to amend to remove the objection, if possible.

6.) Improper Cumulation of Actions:

6a.) Marathon defendants contend that claims for demand for release of acreage (count 4) and for failure to pay royalties (count 3) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, to the extent they seek dissolution of the lease are improperly cumulated with the claim for drainage (count 5) and the claims for demand for release of acreage to the extent these claims seek performance under the lease and require defendants to be put on notice of default.

Exception is granted in part and denied in part. (See Tortuga defendants Improper Cumulation of Actions #6a above).

6b.) Marathon defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) based on alleged contamination migrating from properties neighboring PP, in 3rd Amended Petition, have been improperly cumulated with the present

case because these claims are unrelated to plaintiffs claims for environmental contamination allegedly resulting from defendant's operations on PP and present separate claims against separate defendants on the respective adjoining properties.

Exception of improper cumulation is granted. (See reasons Tortuga defendants Improper Cumulation #6b above).

7.) No Cause of Action

7a.) Marathon defendants contend that claim for potential drainage (count 5) in the Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails to state a cause of action because LA law does not recognize a claim for potential drainage, only actual drainage.

Exception of no cause of action is denied as moot. Plaintiff conceded that claim was premature and withdrew claim at the hearing.

7b.) Marathon defendants contend that the claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising before settlement of BBI fail to state a cause of action because said claims are released.

Exception of no cause of action is granted in part and denied in part. (See reasons Tortuga defendants No Cause of Action #7a above).

7c.) Marathon defendants contend that claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, arising after the settlement for BBI fail to state a cause of action because said claims are to be assigned to defendants under the option to purchase.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7b above).

7d.) Marathon defendants contend claim for remediation of PP based on claims for environmental damage (count 1) and subsurface damage (count 6) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fail to state a cause of action because the duty to repair the leased property doesn't arise until the lease expires.

Granted in part and denied in part. (See reasons Tortuga defendants No Cause of Action #7c

above).

7e.) Marathon defendants contend claim for unjust enrichment for the alleged unauthorized disposal on PP of waste based on claim for environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because other legal remedies exist at law.

Exception of no cause of action is granted. (See reasons Tortuga defendants No Cause of Action #7d above).

7f.) Marathon defendants contend claim for punitive damages under C.C. art. 2315.3 based on environmental damage (count 1) in 3rd Amended Petition fails to state a cause of action because this statute was repealed in 1996 and any such claim prior to that date was compromised in the settlement of BBI in 1986.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7e).

7g.) Marathon defendants contend that claim for in solido liability for all defendants based on claims for environmental damage (count 1) and subsurface damage (count 6) in 3rd Amended Petition resulting from migration of alleged migration of alleged contamination from properties neighboring PP fails to state a cause of action because in solido liability is not applicable.

Exception of no cause of action is granted and plaintiff is given 15 days to remove said objection, if possible. The 3rd Amended Petition fails to state a cause of action that all defendants are liable in solido.

7h.) Marathon defendants contend that claim for a declaration that the option to purchase is null & void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, as a prohibited transfer of a future thing fails to state a cause of action because future things may be the object of a contract under C.C. art. 1976 and the object of a contract may be that a third party will incur an obligation or render a performance under C.C. art. 1977.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants 7g above).

7i.) Marathon defendants contend that the claim for a declaration that the option to purchase is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended

Petition, and 3rd Amended Petition for lesion fails to state a cause of action because the option is part of the settlement documents which compromised BBI and can't be voided for lesion under C.C. art. 3078.

Exception of no cause of action is denied. (See reasons for denial Tortuga defendants No Cause of Action #7h above).

7j.) Marathon defendants contend claim for release of acreage (count 4) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, which seeks to dissolve the oil and gas lease on PP based on development demand fails to state a cause of action because such demand can't be coupled with demands for lease cancellation.

Exception is granted. (See reasons Tortuga defendants Improper Cumulation of Actions #6a above).

8.) No Right of Action:

8a.) Marathon defendants contend that plaintiffs have no right of action regarding claim that the settlement is null and void due to BB's lack of consent (count 1) in 3rd Amended Petition, because only BB may seek rescission based on such relative nullity.

Exception of No Right of Action is granted in part and denied in part. (See reasons Tortuga defendants No Right of Action #8a above).

9.) Non-Joinder:

9a.) Marathon defendants contend that the claim that the settlement which compromised BB can't be enforced due to BB's alleged lack of consent (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said agreement has not been joined as a party.

Exception is granted. (See reasons Tortuga defendants Non-Joinder #9a above).

9b.) Marathon defendants contend claim that option is null and void (count 2) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, fails because BB a signatory to said option and all of the grantees to said option have not been joined as a party.

Exception is granted. (See reasons Tortuga defendants Non-Joinder #9b above).

10.) Prescription

10a.) Marathon defendants contend that claims for environmental damage (count 1) and

subsurface damage (count 6) as alleged in Original Petition and 1st, 2nd, and 3rd Supplemental Amending Petition based on tort theories of liability which prescribe one year from their discovery under C.C. art. 3493 are prescribed as said claims were obviously “discovered” at the time of filing of BBI and BBII.

Exception of prescription is denied. (See reasons for denial Tortuga defendants Prescription #10a above).

10b.) Marathon defendants contend that claim for a declaration that the option is null and void (count 2) in 3rd Amended Petition, for lack of consent due to BB’s error (a relative nullity) is prescribed because such claim prescribed 5 years from when the alleged error should have been discovered.

Exception of prescription is granted in part and denied in part. (See reasons Tortuga defendants Prescription #10b above).

10c.) Marathon defendants contend claim in 3rd Amended Petition, that settlement agreement is relatively null is prescribed.

Exception of prescription is granted in part and denied in part. (See reasons Tortuga defendants Prescription #10b above).

10d.) Marathon defendants contend that claims for royalties (count 3) in Original Petition,¹ Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are prescribed to the extent said claim seeks royalties exceeding 3 years which prescribe in 3 years under C.C. art. 3494.

Exception of prescription is granted and plaintiffs are not entitled to seek royalties exceeding 3 years prior to filing of petition. (See reasons Tortuga defendants Prescription #10d above).

10e.) Marathon defendants contend claims in 3rd Amended Petition, for environmental contamination allegedly due to contamination of adjacent properties is prescribed.

Exception of prescription is denied. (See reasons Tortuga defendants Prescription #10e above).

Exceptions filed by TEPI defendants

1.) Res Judicata

1a.) TEPI contends claims for environmental damage (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are barred

by res judicata based on the settlement of BBI as the claims were settled or could have been litigated in that case.

Exception is granted in part and denied in part. (See reasons Tortuga defendants Res Judicata #1a above).

1b.) TEPI contends claims for environmental damage (count 1) in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition, are barred by res judicata based on BBII as the claims were litigated or could have been litigated in that case.

Exception is denied. (See reasons Tortuga defendants Res Judicata #1b above).

1c.) TEPI contends claims in 3rd Amended Petition that the settlement agreement is unenforceable were, or could have been, raised in BBII are barred by res judicata.

This claim is not barred by res judicata. (See reasons Tortuga defendants Res Judicata #1b above).

2.) Vagueness and Nonconformity

2a.) TEPI contends claims alleged in Original Petition, 1st Amended and Restated Petition, 2nd Amended Petition, and 3rd Amended Petition are vague and conclusory and fail to state specific facts that are necessary to defend claim.

Exception is granted in part and denied in part. (See reasons Tortuga defendants Vagueness #5a and #5b; and BP Amoco Nonconformity #7a above).

3.) No Cause of Action

3a.) TEPI contends claims for punitive damages (count 1) in 3rd Amended Petition fails to state a cause of action because plaintiffs fail to allege factual allegations to suggest defendant did any particular thing in violation of the act during its existence and thus doesn't state a cause of action for punitive damages under 2315.3 against defendant.

Exception is denied. (See reasons for denial Tortuga defendants No Cause of Action #7e above).

3b.) TEPI contends that to the extent plaintiffs punitive claims are based on general oilfield operations that took place over decades, and which took place both prior to enactment of article 2315.3 and after its repeal are barred and thus petitions fail to state a cause of action

Exception is denied. (See reasons for denial Tortuga defendants No Cause of Action #7e

above).

4.) Prescription

4a.) TEPI contends assuming C.C. art. 2315.3 is applicable (which defendant denies), any claim under that article has prescribed.

Exception is denied. Plaintiffs have alleged a valid cause of action for C.C. art. 2315.3 damages which appear to be based on substantial injury producing events which occurred during the time period in which C.C. art. 2315.3 was in effect. The plaintiffs have alleged a continuous tort and contend that they only recently discovered the contamination and hazardous materials which give rise to damages under this article in late June 2003 and subsequent testing. Furthermore, plaintiffs contend that the property was transferred to them and that they had no knowledge of such contamination. Moreover, plaintiffs contend that the defendants represented in 2003 that any contamination prior to execution of BBI was cured and remediated. The court finds that the actions by plaintiffs were not un reasonable and that plaintiffs used reasonable diligence in relying on representations by defendants that there was no contamination. Thus, on the face of the petition, this cause of action is not prescribed and the exception is denied.

Motion filed by Plaintiffs

1.) Motion to Compel Discovery

1a.) Plaintiffs contend that defendants have failed to answer outstanding discovery and should be ordered to answer it.

Motion is granted. Defendants are given 30 days from date of this judgment to provide complete responses to plaintiffs discovery subject to the decisions given for the numerous exceptions filed by defendants.

Accordingly:

IT IS ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1a, filed by defendants, Tortuga, be and is hereby granted in part and denied in part for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1b, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1c, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1d, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1e, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1f, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1g, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1h, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1i, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1j, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Lack of Subject Matter Jurisdiction #2a, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3a, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3b, filed by defendants, Tortuga, be and is hereby granted in part and denied in part, for the reasons stated herein. As to the claims that exception is granted in part, those claims are dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3c, filed by defendants, Tortuga, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Venue #4a, filed by defendants, Tortuga, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5a, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5b, filed by defendants, Tortuga, be and is hereby granted and plaintiff is given 15 days to remove the objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6a, filed by defendants, Tortuga, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove the objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6b, filed by defendants, Tortuga, be and is hereby granted and plaintiff is given 15 days to remove the objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7a, filed by defendants, Tortuga, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

It is Further Ordered, Adjudged, and Decreed, that the Exception of No Cause of Action #7b, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7c, filed by defendants, Tortuga, be and is hereby granted in part and denied in part and the plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7d, filed by defendants, Tortuga, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7e, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7f, filed by defendants, Tortuga, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7g, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7h, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7i, filed by defendants, Tortuga, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7j, filed by defendants, Tortuga, be and is hereby denied as moot for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Right of Action #8a, filed by defendants, Tortuga, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non-Joinder #9a, filed by defendants, Tortuga, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non- Joinder #9b, filed by defendants, Tortuga, be and is hereby granted in part and denied in part as moot for the reasons stated herein. Plaintiff is given 15 days to remove said objection.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10a, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10b, filed by defendants, Tortuga, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10c, filed by defendants, Tortuga, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10d, filed by defendants, Tortuga, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10e, filed by defendants, Tortuga, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Motion for Protective Order, filed by defendants, Tortuga, be and is hereby granted to the extent limited in the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Motion to Strike Allegations of Extortion from paragraph 58 of plaintiffs 1st Amended and Restated Petition, filed by defendants, Tortuga, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1a, filed by defendants, Linder, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1b, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1c, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1d, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1e, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1f, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1g, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1h, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1i, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1j, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Lack of Subject Matter Jurisdiction #2a, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3a, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3b, filed by defendants, Linder, be and is hereby granted in part and denied in part, for the reasons stated herein. As to the exception that is granted in part, those claims are dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3c, filed by defendants, Linder, be and is hereby denied as moot for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #d, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Venue #4a, filed by defendants, Linder, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5a, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5b, filed by defendants, Linder, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6a, filed by defendants, Linder, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6b, filed by defendants, Linder, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7a, filed by defendants, Linder, be and is hereby denied as moot, for the reasons stated

herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7b, filed by defendants, Linder, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7c, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7d, filed by defendants, Linder, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7e, filed by defendants, Linder, be and is hereby granted and the plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7f, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7g, filed by defendants, Linder, be and is hereby granted and plaintiff is given 15 days to remove said objection, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7h, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7i, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7j, filed by defendants, Linder, be and is hereby granted and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Right of Action #8a, filed by defendants, Linder, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non-Joinder #9a, filed by defendants, Linder, be and is hereby granted and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non-Joinder #9b, filed by defendants, Linder, be and is hereby granted in part and denied in part as moot and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10a, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10b, filed by defendants, Linder, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10c, filed by defendants, Linder, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10d, filed by defendants, Linder, be and is hereby granted, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10e, filed by defendants, Linder, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Motion for Protective Order, filed by defendants, Linder, be and is hereby granted to the extent given in the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Motion to Strike Allegations of Extortion from paragraph 58 of plaintiffs 1st Amended and Restated Petition, filed by defendants, Linder, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1a, filed by defendants, BP Amoco, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1b, filed by defendants, BP Amoco, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #2a, filed by defendants, BP Amoco, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Right of Action #3a, filed by defendants, BP Amoco, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #4a, filed by defendants, BP Amoco, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Lack of Subject Matter Jurisdiction #5a, filed by defendants, BP Amoco, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #6a, filed by defendants, BP Amoco, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Nonconformity of Petition #7a, filed by defendants, BP Amoco, be and is hereby granted but plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness and Ambiguity #8a, filed by defendants, BP Amoco, be and is hereby denied for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1a, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1b, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1c, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1d, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1e, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1f, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1g, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1h, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1i, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1j, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Lack of Subject Matter Jurisdiction #2a, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Lack of Subject Matter Jurisdiction #2b, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Exception of Prematurity #3a, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3b, filed by defendants, Allain Land, be and is hereby granted in part and denied in part, for the reasons stated herein. As to the exception granted in part, those claims are dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3c, filed by defendants, Allain Land, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3d, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Venue #4a, filed by defendants, Allain Land, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5a, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5b, filed by defendants, Allain Land, be and is hereby granted and the plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6a, filed by defendants, Allain Land, be and is hereby granted in part and denied in part as moot and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6b, filed by defendants, Allain Land, be and is hereby granted and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7a, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7b, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7c, filed by defendants, Allain Land, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7d, filed by defendants, Allain Land, be and is hereby granted and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7e, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7f, filed by defendants, Allain Land, be and is hereby granted and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7g, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7h, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7i, filed by defendants, Allain Land, be and is hereby granted and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7j, filed by defendants, Allain Land, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Right of Action #8a, filed by defendants, Allain Land, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non-Joinder #9a, filed by defendants, Allain Land, be and is hereby granted and plaintiff is given 15 days to remove said objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non-Joinder #9b, filed by defendants, Allain Land, be and is hereby granted in part and denied in part as moot and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10a, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10b, filed by defendants, Allain Land, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10c, filed by defendants, Allain Land, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10d, filed by defendants, Allain Land, be and is hereby granted for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10e, filed by defendants, Allain Land, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Nonconformity #11a, filed by defendants, Allain Land, be and is hereby granted and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1a, filed by defendants, Marathon, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1b, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1c, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1d, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1e, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1f, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1g, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1h, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1i, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1j, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Lack of Subject Matter Jurisdiction #2a, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3a, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3b, filed by defendants, Marathon, be and is hereby denied in part and granted in part, for the reasons stated herein. As for the exception that is granted in part, those claims are dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3c, filed by defendants, Marathon, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prematurity #3d, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Venue #4a, filed by defendants, Marathon, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5a, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness #5b, filed by defendants, Marathon, be and is hereby granted and the plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6a, filed by defendants, Marathon, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Improper Cumulation of Actions #6b, filed by defendants, Marathon, be and is hereby granted and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7a, filed by defendants, Marathon, be and is hereby denied as moot, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7b, filed by defendants, Marathon, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7c, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7d, filed by defendants, Marathon, be and is hereby granted in part and denied in part and the plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7e, filed by defendants, Marathon, be and is hereby granted and the plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7f, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7g, filed by defendants, Marathon, be and is hereby granted and the plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7h, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7i, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #7j, filed by defendants, Marathon, be and is hereby granted and plaintiff is given 15 days

to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Right of Action #8a, filed by defendants, Marathon, be and is hereby granted in part and denied in part and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non-Joinder #9a, filed by defendants, Marathon, be and is hereby granted and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Non-Joinder #9b, filed by defendants, Marathon, be and is hereby granted and plaintiff is given 15 days to remove the objection, if possible, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10a, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10b, filed by defendants, Marathon, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10c, filed by defendants, Marathon, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10d, filed by defendants, Marathon, be and is hereby granted, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #10e, filed by defendants, Marathon, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1a, filed by defendants, TEPI, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1b, filed by defendants, TEPI, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Res Judicata #1c, filed by defendants, TEPI, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Vagueness and Nonconformity #2a, filed by defendants, TEPI, be and is hereby granted in part and denied in part, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #3a, filed by defendants, TEPI, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of No Cause of Action #3b, filed by defendants, TEPI, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Exception of Prescription #4a, filed by defendants, TEPI, be and is hereby denied, for the reasons stated herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the Motion to Compel Discovery #1a, filed by plaintiffs, NB and PP L.L.C., be and is hereby granted, for the reasons stated herein.

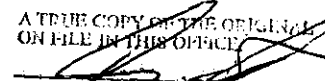
JUDGMENT RENDERED AND SIGNED, GRETN, LOUISIANA, this 8th day of

May, 2006



JUDGE

CODED

A TRUE COPY OF THE ORIGINAL
ON FILE IN THIS OFFICE

DEPUTY CLERK
24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, LA.