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Pumpco Escapes Fracking Spill Suit

Pumpco is represented by Michael E. Smith of Hall Estill Hardwick Gable Golden & Nelson PC

December 17, 2014

Law 360

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By Emily Field

Law360, New York (December 17, 2014, 1:52 PM ET) -- An Oklahoma federal judge on Tuesday dismissed oil and gas exploration component manufacturer Cameron International Corp.'s claims that Pumpco Energy Services Inc.'s alleged negligence proximately caused an Oklahoman fracking spill, ruling that there is no legal relationship between the parties.

U.S. Judge Vicki Miles-LaGrange granted Pumpco's motion to dismiss Cameron's third-party complaint that sought to shoulder the pressure pumping services provider with the responsibility for a spill at a fracking site in Pennsylvania owned by Chesapeake Appalachia LLC and Chesapeake Operating Inc. The judge ruled that Pumpco, which Cameron had alleged owed contribution and indemnity for the spill, didn't manufacture a well head at the site and thus wasn't legally responsibly to Cameron for indemnification.

"The court finds that based on Cameron's allegations against Pumpco, Cameron is alleging that Pumpco's hydraulic fracturing operations is what caused the loss of control at the 2H well, not Cameron's well head," the judge said. "The court finds that while the well head was intergraded into the hydraulic fracturing operations system, the well head and the hydraulic fracturing system were two separate products provided by two separate independent parties."

The judge said that Cameron failed to allege that Pumpco is either jointly or solely liable to Chesapeake for the loss of control at the well site.

Cameron claimed that Chesapeake had hired and relied upon Pumpco to conduct the hydraulic fracturing operations at the well where Pumpco was conducting fracking operations when the spill occurred, according to the ruling.

Cameron filed suit against Pumpco in August, according to court documents. after Chesapeake sued Cameron, accusing it of supplying faulty equipment that resulted in the spill in 2011.

Judge Miles-Grange rejected Cameron's argument that it only sought a "pro rata" share of the responsibility if Cameron were found liable to Chesapeake for the spill.

“However, a review of Cameron’s third-party complaint reveals that while Cameron concludes by asking the court to ‘award all damages and recovery to Cameron from Pumpco as may be allowed by law,’ the body of Cameron’s third-party complaint seems to hold Pumpco solely responsible for the loss of control at the 2H well,” the judge said. “As a result, Cameron’s third-party complaint fails to allege that both Pumpco and Cameron are jointly or severally liable to Chesapeake requiring contribution”.

In July, the judge nixed Cameron’s bid to escape Chesapeake’s suit, rejecting its argument that since the purported failure of the well head is what allegedly caused the economic loss, the economic loss rule bars Chesapeake from bringing tort claims against Cameron.

In Oklahoma, the rule precludes a plaintiff from pursuing tort and extra-contractual claims when a product failure results in an economic loss.

Under Oklahoma Supreme Court precedent, Judge Miles-LaGrange said, manufacturer’s products liability provides for the recovery of personal injury damages and damages to other property.

The products liability theory does not extend to the situation where the only damage was to the product itself, according to the judge.

In 2011, Chesapeake alleged that a failure at a well near LeRoy Township, Pennsylvania, occurred at the well head, resulting in an uncontrollable discharge of fluids.

Chesapeake said it stopped fracturing operations at that well and all other fracturing operations in Pennsylvania and elsewhere due to the accident.

Representatives for the parties did not immediately respond to requests for comment on Wednesday.

Pumpco is represented by Michael E. Smith of Hall Estill Hardwick Gable Golden & Nelson PC and Jared B. Caplan of Coats Rose.

Chesapeake is represented by Daniel T. Donovan and Gregory L. Skidmore of Kirkland & Ellis LLP and Timothy J. Bomhoff of McAfee & Taft PLC.

Cameron is represented by Richard T. Stilwell and Eric W. Kristiansen of Baker Hostetler LLP and Steven L. Barghols, Rob F. Robertson and Elizabeth F. Cooper of GableGotwals.

The case is Chesapeake Appalachia LLC et al. v. Cameron International Corp., number 5:13-cv-01118, in the U.S. District Court for the Western District of Oklahoma.

--Additional reporting by Juan Carlos Rodriguez. Editing by Stephen Berg.
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