

**IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**IN RE: KELVIN MANBODH ASBESTOS
LITIGATION SERIES**

KELVIN MANBODH,

Plaintiff,

vs.

**HESS OIL VIRGIN ISLANDS CORPORATION;
AMERADA HESS CORPORATION; BORINQUEN
INSULATION COMPANY, INC.; RAYTHEON
ENGINEERS & CONSTRUCTORS, INC.,
individually and as successor in interests to LITWIN
CORPORATION and LITWIN PAN-AMERICAN
CORPORATION; OWENS-CORNING
FIBERGLASS CORPORATION; RARITAN
SUPPLY COMPANY; individually and as successor
in interests to BRIDGE SUPPLY COMPANY;
UNION PUMP COMPANY; PITTSBURGH
CORNING CORPORATION, individually and as
successor to UNARCO INDUSTRIES; MADSEN &
HOWELL, INC.; GARLOCK, INC.; GAF
CORPORATION, individually and as successor to
RUBEROID; FLEXITALLIC GASKET COMPANY;
ARMSTRONG WORLD INDUSTRIES; CERTAINTEED
PRODUCTS CORPORATION; FOSTER WHEELER
CORPORATION, individually and as successor in
interests to FORTY-EIGHT INSULATIONS, INC.;
3M a/k/a MINNESOTA MINING & MANUFACTURING
COMPANY; WESTINGHOUSE ELECTRICAL
CORPORATION; ELLIOT COMPANY, a division of
CARRIER; RIGGERS AND ERECTORS
INTERNATIONAL, INC.; VIRGIN ISLANDS
INDUSTRIAL MAINTENANCE CORPORATION;
DRESSER INDUSTRIES, individually and as successor in
interests to PACIFIC PUMP, INC.; and SHELL OIL
CORPORATION;**

Defendants.

HESS OIL VIRGIN ISLANDS CORPORATION,

Third Party Plaintiff,

vs.

**DRESSER INDUSTRIES, INC., individually and as
successor in interests to HARBISON-WALKER**

ASBESTOS DOCKET

**MASTER DOCKET NO.
324/1997**

CIVIL NO. 324/1997

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

DOCUMENT NO. 1863

*Not for
Publication*

REFRATORIES CO.; HARBISON-WALKER)
REFRATORIES CO.; LOCKHEED MARTIN)
CORPORATION, individually and as successor in)
interests to MARTIN MARIETTA CORPORATION,)
MARTIN MARIETTA ALUMINUM INC. and MARTIN)
MARIETTA ALUMINUM PROPERTIES, INC.;)
MARTIN MARIETTA CORPORATION, individually)
and as successors in interests to MARTIN MARIETTA)
ALUMINUM, INC. and MARTIN MARIETTA)
ALUMINUM PROPERTIES, INC.; MARTIN)
MARIETTA MATERIALS, INC., individually and as)
successor in interests to MARTIN MARIETTA)
CORPORATION, MARTIN MARIETTA ALUMINUM,)
INC. and MARTIN MARIETTA ALUMINUM)
PROPERTIES, INC.; GENERAL ENGINEERING)
CORPORATION FLUOR DANIEL, individually and as)
successor in interests to FLUOR ENGINEERS AND)
CONSTRUCTORS, INC.; FLUOR ENGINEERS AND)
CONSTRUCTORS, INC.; FLUOR CORPORATION;)
A.P. GREEN INDUSTRIES, INC., individually and as)
successor in interests to A.P. GREEN REFRATORIES)
COMPANY; TUTHILL CORPORATION, individually)
and as successor in interests to COPPUS MURRAY)
GROUP and/or CORPUS TURBINES; ALLTITE)
GASKET COMPANY; JOHN CRANE f/k/a CRANE)
PACKING COMPANY; RUBBER AND GASKET)
COMPANY OF P.R.; AUSTIN INDUSTRIAL, INC. f/k/a)
TECHNICAL MAINTENANCE, INC., AUSTIN TMI,)
INC. and/or AUSTIN INDUSTRIES; KELLOGG)
BROWN & ROOT, a Halliburton Company, individually)
and as successor in interests to BROWN & ROOT)
OVERSEAS, INC.; CBI SERVICES, INC.;)
COMMUNICATIONS SYSTEMS & MAINTENANCE)
CORPORATION; STANDBY POWER SUPPLIES, INC.;)
COMMUNICATIONS SYSTEMS & MAINTENANCE)
CORPORATION; STANDBY POWER SUPPLIES, INC.;)
A.T.I.M.A.; D&M ELECTRIC INC.;)
INSTRUMENTATION & ELECTRICAL SYSTEMS)
SERVICES THE LUMMUS COMPANY; PETROCHEM)
MAINTENANCE & CONSTRUCTION ("PMC"), a)
division of BEACON ELECTRONICS, INC.; REED,)
WIBBLE & BROWN, INC.; ST. CROIX COMPRESSION)
AND ROTATING EQUIPMENT SERVICES, INC.;)
WESTERN INDUSTRIAL PIPING; COMBUSTION)
ENGINEERING, INC.; BORN INC. f/k/a BORN)
ENGINEERING COMPANY; ALFRED CONHAGEN,)
INC.; SAINT-GOBAIN ADVANCED CERAMICS, as)
successor in interests to CARBORUNDUM)
CORPORATION; INDUSTRIAL HOLDINGS)
CORPORATION; CONTROL ASSOCIATES; THE)
DARCOID COMPANY, INC. a/k/a DARCOID RUBBER)
COMPANY; GERARD PACKING & BELTING)
CORPORATION; INSULATION DISTRIBUTORS)
CORPORATION; ISLAND SUPPLY COMPANY;)
LAMONS GASKET COMPANY; RESAL,)

INCORPORATED; GENERAL WELDING WORKS,)
INC., PARSONS CORPORATION, as successor in)
interests to THE RALPH M. PARSONS COMPANY;)
STERLING PACKING & GASKET DIVISION;)
STANDCO INDUSTRIES, INC.; STRAHMAN VALVES,)
INC., CON-RAD, a division of U.S. INDUSTRIES;)
WESTERN SUPPLY COMPANY; INDUSTRIAL)
FABRICATING CO.; P.H. SALES INCORPORATED)
a/k/a JOHN ZINK COMPANY, LLC; POWER PIPE)
AND SUPPLY COMPANY, INCORPORATED; WANER)
CORPORATION; GENERAL ELECTRIC COMPANY;)
STATE INSULATION CORPORATION,)

Third Party Defendants.)

NOT FOR PUBLICATION

This Memorandum Opinion is specifically applicable to the following:

FOSTER JOBITY and JOSSLYN JOBITY
vs.
HESS OIL VIRGIN ISLANDS CORPORATION, et al
CIVIL NO. 16/1998

MEMORANDUM OPINION

In 1998, the original plaintiffs in this case filed an action against Hess Oil Virgin Islands Company ("HOVIC"). HOVIC has subsequently filed a third party complaint naming 68 third party defendants, including Fluor Daniel, Fluor Engineers and Constructors, Inc. and Fluor Corporation ("Fluor") seeking contribution and indemnification for any liability found against them in this matter.

This matter comes before the court on Fluor's Answer to the Third Party Complaint which includes a Motion to Dismiss and a Motion to Sever. HOVIC has filed a response to these motions.

For the reasons more fully discussed below, this Court will deny Fluor's Motion to Dismiss and grant Fluor's Motion to Sever.

DISCUSSION

I. Should fluor's Motion to Dismiss Be Analyzed Pursuant to Federal Rule of Civil Procedure 12(b)(6)?

Fluor's Motion is not based on an identified Federal Rule of Civil Procedure or specific prejudicial harm.

Several of the enumerated paragraphs in Fluor's Motion to Dismiss address HOVIC's failure to attach certain documents to the complaint. These issues may properly be addressed in a Motion for a More Definite Statement or by the discovery process.

Paragraphs one and nine of Fluor's Motion to Dismiss, however, contend that HOVIC has failed to state a claim for a particular type of relief. This type of challenge to the sufficiency of a complaint is most akin to a "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6).

Fluor's Motion is labeled "Motion to Dismiss" and prays for dismissal of the Third Party Complaint. Thus, treating the Motion as a whole, this Court will review it pursuant to Federal Rule of Civil Procedure 12(b)(6).

II. Flour's Motion to Dismiss Should Be Denied.

Treating Fluor's Motion to Dismiss as one falling under Rule 12(b)(6), HOVIC's Third Party Complaint is sufficient to withstand such a challenge.

A. Federal Rule of Civil Procedure 12(b)(6) Standard.

"The practice and procedure in the Territorial Court shall be governed by the Rules of the Territorial Court and to the extent not inconsistent therewith . . . the Federal Rules of Civil Procedure." Terr. Ct. R. 7. Federal Rule of Civil Procedure 12(b)(6) allows a defense for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6).

The standard for a motion to dismiss pursuant to Rule 12(b)(6) is firmly established in Virgin Islands law.

Since a motion to dismiss for failure to state a claim upon which relief can be granted tests the sufficiency of the complaint, the court's inquiry is limited to the contents of the complaint, and the motion to dismiss must be considered in conjunction with Rule 8(a) which sets forth the requirements for pleading a claim.

Callender v. Nichtern, 32 V.I. 96 (Terr. Ct. 1995).

Federal Rule of Civil Procedure 8(a) states, "[a] pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third party claim, shall contain (2) a short and plain statement of the claim showing that the pleader is entitled to relief" Fed. R. Civ. P. 8(a).

"The court 'must determine if plaintiff may be entitled to relief under any reasonable reading of the pleadings, assuming the truth of all the factual allegations in the complaint.'"

Port Auth. of New York & New Jersey v. Arcadian Corp., 1999 U.S. App. LEXIS 19574 (3d Cir. 1999)(quoting *Alexander v. Whitman*, 114 F.3d 1392, 1397 (3d Cir. 1997)).

Therefore, "[a] court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proven consistent with the allegations." *Id.*

B. HOVIC's Complaint Meets the Requirements of Federal Rule of Civil

Procedure 8(a).

In the instant case, HOVIC's Third Party Complaint sufficiently complies with Rule 8(a); and, assuming the truth of all factual allegations in the complaint, provides claims on which relief can be granted.

1. Common Law Contribution.

HOVIC claims common law contribution in Count One of the Complaint. HOVIC alleges that it relied on the Third Party Defendant's skill, knowledge and experience,

whether express or implied, and that the original suit ensued because of its reliance. (Third Party Complaint at 6).

Fluor's challenge to this claim is apparently contained in paragraph one of its Motion to Dismiss. Paragraph one states that the "Third Party Complaint fails to state with particularity the facilities and dates where they are seeking contribution." (Fluor's Answer at 5).

For purposes of pleading, such specificity is not required. As long as the complaint meets the liberal pleading rules associated with Rule 8(a), the complaint is sufficient.

"[W]here two or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them." *In re Reading Co.*, 115 F.3d 1111 (3d Cir. 1997)(quoting the Uniform Contribution Among Tortfeasors Act (1955 Revised Act) § 1, 12 U.L.A. 194).

The Third Party Complaint states in the preamble the fact that Plaintiffs have filed a complaint against HOVIC. (Third Party Complaint at 4). That complaint is also attached as Exhibit C. The preamble further states that the Third Party Defendants were associated with asbestos-containing products at the HOVIC refinery. (Third Party Complaint at 6).

Common law contribution is a claim upon which HOVIC may seek relief. Specifically, the Third Party Complaint alleges that as a result of certain breaches of warranty by the Third Party Defendants, HOVIC has been sued by the Plaintiffs. (Third Party Complaint at 13).

Assuming the truth of all facts alleged, HOVIC would be entitled to relief, should these facts be proved at trial. Count One of the Third Party Complaint is, therefore, properly plead.

2. Common Law Indemnification.

Count Two of the Third Party Complaint claims common law indemnification. (Third Party Complaint at 18). This is the only claim as to which Fluor has specifically challenged HOVIC's ability to claim relief. Fluor states that, as a matter of law, HOVIC cannot claim common law indemnification because it had a non-delegable duty to maintain a safe working environment. (Fluor's Answer at 6).

Indemnification is a common law remedy, relief of which stems from the relationship of the parties.

A person who, without fault on his part, has been compelled to pay damages is entitled to recover indemnity where, as between the parties in the indemnity action, the defendant is primarily liable while the plaintiff is only secondarily liable, that is, where the plaintiff is only technically or constructively liable to the injured party, or where his liability was based on a legal or contractual relationship with the defendant.

Restatement of Restitution § 86 (1937).

Both the Restatement of Restitution and the Restatement (Second) of Torts recognize a right to indemnification from a joint tortfeasor. *See Dublin v. Virgin Islands Tel. Corp.*, 15 V.I. 214 (Terr. Ct. 1978).

HOVIC's Complaint seeks common law indemnification based on the fact that, should it be found liable, its liability is secondary and the liability of the third party defendants would be primary. (Third Party Complaint at 18). Fluor's assertion that HOVIC may not, as a matter of law, claim common law indemnification is, therefore, unfounded.

Assuming the alleged facts to be true, relief could be granted. For purposes of pleading, HOVIC's claim for indemnification is properly plead and sufficient to withstand Fluor's Motion to Dismiss.

3. Breach of Contract.

Counts three, four and five of HOVIC's Third Party Complaint address contractual issues including breach of contract claims and contractual indemnification. Fluor's asserted ground for dismissal as to these counts is that the Third Party Complaint fails to either attach or specifically identify certain documents regarding such claims. (Fluor's Answer at 5).

Again, these specificity issues are best addressed in a Motion for a More Definite Statement if the "pleading is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading." Fed. R. Civ. P. 12(e).

Each count alleges facts providing for the existence and terms of a contract, the breach by Fluor and the injury to HOVIC. "A complaint, petition, or declaration in an action for breach of contract should, among other things, allege: Terms of contract . . . Performance by plaintiff of contract . . . Fact's showing defendant's breach of contract . . . [and] injury to plaintiff." 7A Am. Jur. Pleading and Practice Forms Contracts § 68 (1995).

The third party complaint need not include exhaustive proofs of its claim. This Court recognizes and applies the liberal pleading rules surrounding Rule 8(a). *See Lloyd ex. rel. Lloyd v. Virgin Islands*, 39 V.I. 18, 23 (Terr. Ct. 1998)(citing *Yamaguchi v. United States Dep't of Air Force*, 109 F3d 1475, 1481 (1997)). "[A]ll the Rules require is 'a short and plain statement of the claim' that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." *Yamaguchi* (citing *Conley v. Gibson*, 355 U.S. 41, 47, 78 S.Ct. 99, 103, 2 L.Ed.2d 80 (1957)).

HOVIC's Complaint meets these standards as to the claims for breach of contract. Count Three claims that the Third Party Defendants expressly agreed to indemnify HOVIC, and failed to do so. (Third Party Complaint at 23). Count Four claims the Third Party Defendants expressly agreed to obtain insurance, and failed to do so. (Third Party Complaint at 27). Count Five claims the Third Party Defendants expressly agreed to name HOVIC as an additional insured and failed to do so. (Third Party Complaint at 29 - 30).

Assuming the truth of the factual allegations contained in HOVIC's Third Party Complaint, it is clear that relief could be granted under any set of facts that could be proven consistent with those allegations.

Accordingly, Fluor's Motion to Dismiss must be Denied.

III. Fluor's Motion to Sever Will Be Granted.

Also included in Fluor's Answer to the third party complaint is a Motion to Sever the Third Party Complaint from the trial of the main action. (Fluor's Answer at 6). Again, Fluor does not cite a specific Rule of Civil Procedure in its prayer for severance. Instead, Fluor bases its motion on time constraints associated with the discovery process.

Specifically, Fluor states that it has not participated in much of the general or case specific discovery because it was brought into the litigation years after the original case was filed, and that "there is simply not enough time between now and the November trial date to accomplish the tasks necessary to prepare for an adequate defense for this case." (Fluor's Answer at 6).

This Court may sever the Third Party Complaint based on notions of convenience and prevention of prejudice pursuant to Federal Rule of Civil Procedure 42(b).¹ This Court has

¹ Federal Rule of Civil Procedure 42(b) reads:

inherent power to "control the disposition of cases on its docket with economy of time and effort for itself, *for counsel* and for litigants . *Landis v. North Am. Co.*, 299 U.S. 248, 254, 57 S.Ct. 163, 165-66, 81 L.Ed. 153 (1936)(emphasis added). Rule 42(b) "supplement[s] this power and entrust[s] the decision of whether issues should be separated for trial to the discretion of the trial court." *United States v. Kramer*, 770 F.Supp. 954, 957 (D.N.J. 1991)(citations omitted).

In *Kramer*, the primary defendants filed third party claims against more than 500 third party defendants seeking contribution. *See id.* at 956. The third party defendants moved to sever the third party claims pursuant to Federal Rule of Civil Procedure 42(b). *See id.* at 957.

The court in *Kramer* ruled in favor of severance largely because it felt the "third party contribution claims would unduly complicate and overburden any trial of the primary suit." *Id.* at 959. The third party contribution claims in the instant case pose the same danger to the trial of the main action.

This Court is primarily concerned, however, with the time in which Fluor has to prepare its defense. The first trial of the main action is scheduled to commence November 4, 2002. The original complaint against HOVIC and approximately 27 other defendants in the instant case was first filed in 1998. HOVIC's Third Party Complaint against some 68 third party defendants was not filed until November, 2001.

Separate Trials. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third- party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States.

Severance of HOVIC's Third Party Complaint from the main action is necessary in order for Fluor to participate in the general discovery process, conduct its own specific discovery and investigation and prepare an adequate defense.

Accordingly, Fluor's Motion to Sever must be granted.

CONCLUSION

HOVIC's Third Party Complaint sufficiently complies with the general rules of pleading included in the Federal Rules of Civil Procedure. All counts of the complaint include a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed R. Civ. P. 8(a). It is clear that relief could be granted under any set of facts if proven consistent with the allegations contained in the Third Party Complaint. Fluor's Motion to Dismiss, therefore, cannot be sustained.

Fluor may more appropriately take up its specificity concerns in a Motion for a More Definite Statement, should it desire.

Fluor bases its Motion to Sever on the time constraints involved in preparing its defense for trial. Fluor claims it cannot adequately participate in the discovery process and prepare a defense by the November 2002 trial date. This Court agrees.

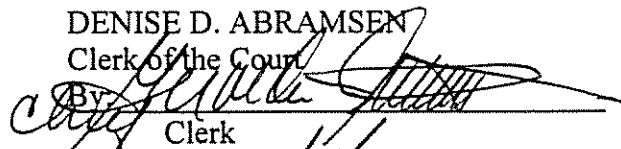
Pursuant to Federal Rule of Civil Procedure 42(b), and in the interest of efficiency and convenience, this Court grants Fluor's Motion to Sever.


MARIA M. CABRET
Presiding Judge

ATTEST:

DENISE D. ABRAMSEN

Clerk of the Court

By 
Clerk

Dated: 10/4/02

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

IN RE: KELVIN MANBODH ASBESTOS
LITIGATION SERIES

KELVIN MANBODH,

Plaintiff,

vs.

HESS OIL VIRGIN ISLANDS CORPORATION;
AMERADA HESS CORPORATION; BORINQUEN
INSULATION COMPANY, INC.; RAYTHEON
ENGINEERS & CONSTRUCTORS, INC.,
individually and as successor in interests to LITWIN
CORPORATION and LITWIN PAN-AMERICAN
CORPORATION; OWENS-CORNING
FIBERGLASS CORPORATION; RARITAN
SUPPLY COMPANY; individually and as successor
in interests to BRIDGE SUPPLY COMPANY;
UNION PUMP COMPANY; PITTSBURGH
CORNING CORPORATION, individually and as
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3M a/k/a MINNESOTA MINING & MANUFACTURING
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CARRIER; RIGGERS AND ERECTORS
INTERNATIONAL, INC.; VIRGIN ISLANDS
INDUSTRIAL MAINTENANCE CORPORATION;
DRESSER INDUSTRIES, individually and as successor in
interests to PACIFIC PUMP, INC.; and SHELL OIL
CORPORATION;

Defendants.

HESS OIL VIRGIN ISLANDS CORPORATION,

Third Party Plaintiff,

vs.

DRESSER INDUSTRIES, INC., individually and as
successor in interests to HARBISON-WALKER

ASBESTOS DOCKET

MASTER DOCKET NO.
324/1997

CIVIL NO. 324/1997

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

DOCUMENT NO. 1862

REFRATORIES CO.; HARBISON-WALKER)
REFRATORIES CO.; LOCKHEED MARTIN)
CORPORATION, individually and as successor in)
interests to MARTIN MARIETTA CORPORATION,)
MARTIN MARIETTA ALUMINUM INC. and MARTIN)
MARIETTA ALUMINUM PROPERTIES, INC.;)
MARTIN MARIETTA CORPORATION, individually)
and as successors in interests to MARTIN MARIETTA)
ALUMINUM, INC. and MARTIN MARIETTA)
ALUMINUM PROPERTIES, INC.; MARTIN)
MARIETTA MATERIALS, INC., individually and as)
successor in interests to MARTIN MARIETTA)
CORPORATION, MARTIN MARIETTA ALUMINUM,)
INC. and MARTIN MARIETTA ALUMINUM)
PROPERTIES, INC.; GENERAL ENGINEERING)
CORPORATION FLUOR DANIEL, individually and as)
successor in interests to FLUOR ENGINEERS AND)
CONSTRUCTORS, INC.; FLUOR ENGINEERS AND)
CONSTRUCTORS, INC.; FLUOR CORPORATION;)
A.P. GREEN INDUSTRIES, INC., individually and as)
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COMPANY; TUTHILL CORPORATION, individually)
and as successor in interests to COPPUS MURRAY)
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COMPANY OF P.R.; AUSTIN INDUSTRIAL, INC. f/k/a)
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CORPORATION; STANDBY POWER SUPPLIES, INC.;)
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CORPORATION; STANDBY POWER SUPPLIES, INC.;)
A.T.I.M.A.; D&M ELECTRIC INC.;)
INSTRUMENTATION & ELECTRICAL SYSTEMS)
SERVICES THE LUMMUS COMPANY; PETROCHEM)
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ENGINEERING, INC.; BORN INC. f/k/a BORN)
ENGINEERING COMPANY; ALFRED CONHAGEN,)
INC.; SAINT-GOBAIN ADVANCED CERAMICS, as)
successor in interests to CARBORUNDUM)
CORPORATION; INDUSTRIAL HOLDINGS)
CORPORATION; CONTROL ASSOCIATES; THE)
DARCOID COMPANY, INC. a/k/a DARCOID RUBBER)
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CORPORATION; INSULATION DISTRIBUTORS)
CORPORATION; ISLAND SUPPLY COMPANY;)
LAMONS GASKET COMPANY; RESAL,)

INCORPORATED; GENERAL WELDING WORKS,)
INC., PARSONS CORPORATION, as successor in)
interests to THE RALPH M. PARSONS COMPANY;)
STERLING PACKING & GASKET DIVISION;)
STANDCO INDUSTRIES, INC.; STRAHMAN VALVES,)
INC., CON-RAD, a division of U.S. INDUSTRIES;)
WESTERN SUPPLY COMPANY; INDUSTRIAL)
FABRICATING CO.; P.H. SALES INCORPORATED)
a/k/a JOHN ZINK COMPANY, LLC; POWER PIPE)
AND SUPPLY COMPANY, INCORPORATED; WANER)
CORPORATION; GENERAL ELECTRIC COMPANY;)
STATE INSULATION CORPORATION,)

Third Party Defendants.)

NOT FOR PUBLICATION

This Order is specifically applicable to the following:

FOSTER JOBITY and JOSSLYN JOBITY

vs.

HESS OIL VIRGIN ISLANDS CORPORATION, et al
CIVIL NO. 16/1998

ORDER

THIS MATTER comes before the Court on Fluor Daniel, Fluor Engineers and Constructors, Inc. and Fluor Corporation ("Fluor") Answer, Motion to Dismiss and Motion to Sever the Third Party Complaint. The Plaintiffs in this case filed a complaint against Hess Oil Virgin Islands Corp. ("HOVIC") in 1998. HOVIC filed a Third Party Complaint against some 68 Third Party Defendants, including Fluor, in November 2001. Fluor filed an Answer to the Third Party Complaint which included a Motion to Dismiss and a Motion to Sever.

Accordingly, it is hereby

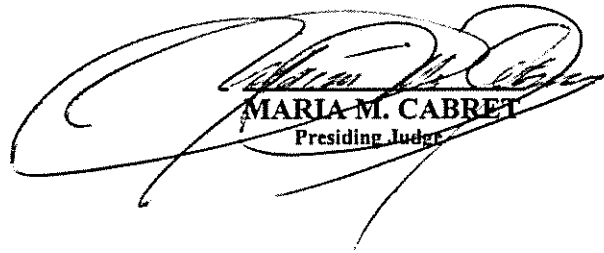
ORDERED that Third Party Defendant Fluor's Motion to Dismiss is **DENIED**.

It is further

ORDERED that Third party Defendant Fluor's Motion to Sever is **GRANTED**.

IT IS SO ORDERED this 4th day of October, 2002.

Order, Fluor Motion to Dismiss and Motion to Sever.
Jobity, 16/1998
Page 4 of 4


MARIA M. CABRET
Presiding Judge

ATTEST:
DENISE D. ABRAMSEN
Clerk of the Court

Chief Dep
By  Clerk
Dated: 10/4/02