

The Supreme Court of the State of Louisiana

SAULSBURY INDUSTRIES, INC.

No. 2022-C-01162

VS.

CABOT CORPORATION AND CLECO POWER,
LLC

IN RE: Cabot Corporation - Applicant Defendant; Applying For Writ Of Certiorari,
Parish of St. Mary, 16th Judicial District Court Number(s) 133910, Court of Appeal,
First Circuit, Number(s) 2021 CA 0679;

November 01, 2022

Writ application granted. See per curiam.

WJC
JLW
JDH
SJC
JBM
PDG

Genovese, J., dissents.

Supreme Court of Louisiana
November 01, 2022

Katie Marjanovic
Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2022-C-01162

SAULSBURY INDUSTRIES, INC.

VS.

CABOT CORPORATION AND CLECO POWER, LLC

On Writ of Certiorari to the Court of Appeal, First Circuit, Parish of St. Mary

PER CURIAM

The doctrine of *lis pendens* applies “[w]hen two or more suits are pending in a Louisiana court or courts on the same transaction or occurrence, between the same parties in the same capacities.” La. Code Civ. Pro. art. 531. In that event, “the defendant may have all but the first suit dismissed by excepting thereto as provided in Article 925.” La. Code Civ. Pro. art. 531; *see also* La. Code Civ. Pro. art. 925(3) (authorizing declinatory exception for objection of *lis pendens* under Article 531).

Two suits are pending in Louisiana courts on the same transaction or occurrence between Cleco Power, Inc., Cabot Corporation, and Saulsbury Industries. Cleco filed the first suit, and Saulsbury later filed the present suit. Although Cabot was not an original party to Cleco’s suit, it intervened in that litigation pursuant to Louisiana Code of Civil Procedure article 1091. These undisputed facts satisfy the requirements for *lis pendens*. Cleco and Cabot properly raised the objection by filing declinatory exceptions. The first suit was filed by Cleco; therefore, this suit, the second suit, filed by Saulsbury must be dismissed without prejudice. *See* La. Code Civ. Pro. art. 531.

The court of appeal found Cabot was not entitled to a dismissal because “Saulsbury’s suit was undisputedly the first filed suit against Cabot.” *Saulsbury Industries, Inc. v. Cabot Corp.*, 21-0679 (La. App. 1 Cir. 5/17/22), 342 So. 3d 882, 888. Article 531 requires the suits be “between the same parties”; however, it does

not require a determination of when each objecting defendant became a party to each suit. Their mutual involvement in multiple suits arising out of the same transaction or occurrence is sufficient to trigger application of *lis pendens*. Once the doctrine is applicable, the “first suit” determination is simply a matter of confirming which suit was filed first, not which suit was the first to include the objecting party. The court of appeal’s interpretation expands the phrase “first suit” to add “in which the objecting defendant was first named as a party.” This interpretation is not warranted by Article 531’s language and, as demonstrated in this case, undermines its purpose.

Lis pendens guards against a multiplicity of suits and promotes judicial efficiency. See 727 *Toulouse, L.L.C. v. Bistro at the Maison De Ville, L.L.C.*, 12-1014 (La. App. 4 Cir. 8/21/13), 122 So. 3d 1152, 1159, *writ denied*, 13-2414 (La. 1/10/14), 130 So. 3d 327. The court of appeal’s interpretation of Article 531 leaves the parties litigating the same transaction in two suits, one involving all three parties and the other involving only two of the parties. This neither guards against a multiplicity of suits nor promotes judicial efficiency. A proper application of Article 531 confines this litigation to one proceeding.

This court has observed that because *lis pendens* and *res judicata* are related doctrines, an exception of *lis pendens* should be sustained if a final judgment in the first suit would be *res judicata* in the subsequently filed suit. See *Aisola v. Louisiana Citizens Prop. Ins. Corp.*, 14-1708 (La. 10/14/15), 180 So. 3d 266, 269. In that regard, Article 531 recognizes that if an exception of *lis pendens* is warranted but not asserted, “the first final judgment rendered [in any of the suits] shall be conclusive of all.” Here, a final judgment between Cabot and Saulsbury in Cleco’s suit would be *res judicata* for their claims in Saulsbury’s suit. This further supports a finding of *lis pendens* and a dismissal of Saulsbury’s claims herein against Cabot. The court of appeal judgment is reversed in part to reinstate the trial court’s judgment

sustaining Cabot's exception of *lis pendens* and dismissing Saulsbury's claims against it without prejudice.¹

COURT OF APPEAL JUDGMENT REVERSED IN PART; TRIAL COURT JUDGMENT REINSTATED.

¹ We recognize that multiple suits may involve some but not all the same parties. In those instances, a proper analysis of an exception of *lis pendens* may require consideration of the demands asserted in each suit against the particular defendant urging the exception. *See Pumpkin Mobile Home Park, LLC v. Harrison*, 13-1086 (La. App. 1 Cir. 2/18/14), writ denied, 14-0828 (La. 6/13/14), 140 So. 3d 1193. However, in the present matter, all parties are involved in both suits.