

Judgment rendered June 27, 2018.

No. 51,965-CA

ON REHEARING

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

JEREMY SHEPHARD AND
EMILY SHEPHARD AND
MICHAEL JACKSON AND
TAMISIA JACKSON

Plaintiffs-Appellees

versus

AIX ENERGY, INC., AIX
OPERATING COMPANY, BEAR
CREEK SERVICES, LLC,
NATIONAL UNION FIRE
INSURANCE COMPANY,
AVERY GRAVES IV, REPUBLIC
WELL TESTING

Defendants-Appellants

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On Motions for Limited Rehearing
Originally Appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 577,546

Honorable Craig Marcotte, Judge

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COOK, YANCEY, KING & GALLOWAY
By: Sidney E. Cook, Jr.
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John T. Kalmbach
David J. Hemken

Counsel for Defendants-
Appellants AIX Energy,
Inc. and St. Paul Fire &
Marine Ins.

MAHTOOK & LAFLEUR

By: Ward F. LaFleur
Richard J. Hymel

GREGORIO, CHAFIN, JOHNSON,
POOLSON & TABOR, LLC

By: Scott Chafin, Jr.
Julie Payne Johnson

Counsel for Plaintiffs-
Appellees Jeremy
Shephard and Emily
Shephard, and Michael
Jackson & Tamisia
Jackson

ROBERT L. SIEGEL
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Counsel for Defendants-
Appellees National
Union Fire Ins. Co., AIG
Specialty Ins. Co. a/k/a
Chartis Ins. Co.

LUNN, IRION, SALLEY, ET AL.

By: Gerald M. Johnson, Jr.

Counsel for Defendants-
Appellees Bear Creek
Services, LLC and Avery
Graves, IV

JOHNSON, RAHMAN & THOMAS

By: Patricia Jackson Delpit

Counsel for LWCC
Intervener-Appellee

* * * * *

Before WILLIAMS, MOORE, PITMAN,
COX and McCALLUM, JJ.

MOORE, J.

ON MOTIONS FOR LIMITED REHEARING

The plaintiffs, Jeremy Shephard, Emily Shephard, Michael Jackson and Tamisia Jackson, have filed an application for limited rehearing to correct the amended awards to allocate them to the balance of the St. Paul policy. The defendants, AIX Energy Inc. and St. Paul Fire & Marine Insurance Company, have filed a request for limited rehearing to correct the amended awards to reflect the 97.5% allocation of fault to AIX Energy. Both motions are hereby GRANTED.

The first, second, fourth, fifth and sixth paragraphs of the judgment are amended and rendered as follows:

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of plaintiff Jeremy Shephard and against defendant AIX Energy Inc. in the sum of SIXTEEN MILLION, SEVEN HUNDRED TWO THOUSAND, TWO HUNDRED SIX & 33/100 (\$16,702,206.33) dollars, plus legal interest, this judgment being unenforceable against AIX Energy Inc. pursuant to the ruling of the U.S. Bankruptcy Court for the Northern District of Texas, Dallas Division, In re: AIX Energy, Chapter 11, Case No. 15-34245, that plaintiff's recovery from AIX Energy Inc. is limited to AIX Energy Inc.'s liability insurance proceeds as set forth below.

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of plaintiff Jeremy Shephard and against defendant St. Paul Fire & Marine Insurance Company in the sum of EIGHT MILLION, FOUR HUNDRED THIRTY-TWO THOUSAND, EIGHTY-FIVE & 00/100 (\$8,432,085.00) Dollars, which represents 76.90% of \$10,965,000.00 (the remaining proceeds of insurance coverage under the St. Paul policy), plus legal interest from the date of judicial demand until paid.

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of plaintiff Emily Shephard and against defendant St. Paul Fire & Marine Insurance Company in the sum of TWO HUNDRED FORTY-FIVE THOUSAND, SIX HUNDRED SIXTEEN & 00/100 (\$245,616.00) dollars, which represents 2.24% of \$10,965,000 (the remaining proceeds of

insurance coverage under the St. Paul policy), plus legal interest from the date of judicial demand until paid.

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of plaintiff Michael Jackson and against defendant AIX Energy Inc. in the sum of FOUR MILLION, FIVE HUNDRED TWENTY-NINE THOUSAND, SIX HUNDRED THREE & 48/100 (\$4,529,603.48) dollars, this judgment being unenforceable against AIX Energy Inc. pursuant to the ruling in the U.S. Bankruptcy Court for the Northern District of Texas, Dallas Division, In re: AIX Energy, Chapter 11, Case No. 15,34245, that plaintiff's recovery from AIX Energy Inc. is limited to AIX Energy Inc.'s liability proceeds as set forth below.

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment herein in favor of plaintiff Michael Jackson and against defendant St. Paul Fire & Marine Insurance Company in the sum of TWO MILLION, TWO HUNDRED EIGHTY-SEVEN THOUSAND, TWO HUNDRED NINETY-NINE & 00/100 (\$2,287,299.00) dollars, which represents 20.86% of \$10,985,000.00 (the remaining proceeds of insurance coverage under the St. Paul policy), plus legal interest from the date of judicial demand until paid.

The remainder of this court's original opinion, rendered May 23, 2018, is affirmed as rendered.