JOANY ZAMORA, ANGELICA DAVILA, AND JUAN TRINIDAD

VERSUS

EQUILON ENTERPRISES, LLC, AND TURNER INDUSTRIES, INC.

NO. 24-CA-507

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-NINTH JUDICIAL DISTRICT COURT
PARISH OF ST. CHARLES, STATE OF LOUISIANA
NO. 89,242, DIVISION "C"
HONORABLE CONNIE M. AUCOIN, JUDGE PRESIDING

May 14, 2025

JUDE G. GRAVOIS
JUDGE

Panel composed of Judges Jude G. Gravois,
Stephen J. Windhorst, and Scott U. Schlegel

AFFIRMED

JGG
SJW
SUS

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GRAVOIS, J.

Plaintiffs/appellants, Joany Zamora and Juan Trinidad, were injured in a work-related accident that occurred on December 10, 2019 at the Shell Oil Company Norco Refinery in Norco, Louisiana.[1] They appeal a summary judgment granted in favor of their statutory employer, defendant Equilon Enterprises, LLC, a subsidiary of Shell Oil Company, who operates the Shell Oil Company Norco facility, dismissing the "intentional act" tort claims asserted by plaintiffs, with prejudice. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

Joany Zamora and Juan Trinidad ("plaintiffs") were injured while in the course and scope of their employment with BrandSafway, LLC, a contractor of Equilon at the Shell Oil Norco Manufacturing Complex. The Norco facility is a large manufacturing complex, refinery, and chemical unit, comprising over 1000 acres in Norco, Louisiana, requiring approximately 1,200 employees and over 1,000 contractors onsite daily to maintain operations, most of which operate 24 hours a day. Plaintiffs were installing scaffolding near a residual catalytic cracking unit, when hot steam condensate vented from a nearby steam vent/silencer onto plaintiffs, causing them to suffer severe burns. The overflow was apparently the result of a clog in the piping or drain systems of the vent/silencer, according to an investigation of the incident performed by Equilon. The report did not identify how long the clog had existed, nor exactly where in the equipment it had occurred.

Plaintiffs sued Equilon in tort for personal injuries.[2] It is undisputed in this case that Equilon is plaintiffs' "statutory employer" as contemplated by La. R.S.

[1] Angelica Davila, the wife of Mr. Zamora, also joined in the suit as a plaintiff, asserting a loss of consortium claim, which is derivative of her husband's personal injury claim. Ms. Davila is also an appellant herein.

[2] Other related proceedings not pertinent to the issues before this Court on appeal herein have taken place in federal court.

23:1061.[3] Thus, plaintiffs' remedy against Equilon would normally be exclusively in workers' compensation, as per La. R.S. 23:1032(A). Plaintiffs, however, have asserted that the "intentional act" exception to the exclusive remedy provisions of the Louisiana Workers' Compensation Law applies in this case. *See* La. R.S. 23:1032(B).[4] Plaintiffs argue that Equilon's knowledge of past incidences of hot-steam-condensate venting from similar vents/silencers at the Norco facility in 2010 and 2016, and an incident in 2017 at a Shell California facility (in which a section of the equipment itself fell to the ground after pressure built up in the equipment due to a plugged drain line), and Equilon's failure to implement identified remedial measures, amount to an "intentional act" under the Louisiana Workers'

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[3] A statutory employer relationship "shall exist whenever the services or work provided by the immediate employer is contemplated by or included in a contract between the principal and any person or entity other than the employee's immediate employer." La. R.S. 23:1061(A)(2); *Sibert v. Nat'l Oilwell Varco, L.P.*, 48,789 (La. App. 2 Cir. 2/26/14), 136 So.3d 283, 290. In the presentr case, a contract between Shell and BrandSafway recognized Shell as the statutory employer of BrandSafway's employees at Shell's Norco facility.

[4] La. R.S. 23:1032 provides, in pertinent part:

> A.(1)(a) Except for intentional acts provided for in Subsection B, the rights and remedies herein granted to an employee or his dependent on account of an injury, or compensable sickness or disease for which he is entitled to compensation under this Chapter, shall be exclusive of all other rights, remedies, and claims for damages, including but not limited to punitive or exemplary damages, unless such rights, remedies, and damages are created by a statute, whether now existing or created in the future, expressly establishing same as available to such employee, his personal representatives, dependents, or relations, as against his employer, or any principal or any officer, director, stockholder, partner, or employee of such employer or principal, for said injury, or compensable sickness or disease.
>
> (b) This exclusive remedy is exclusive of all claims, including any claims that might arise against his employer, or any principal or any officer, director, stockholder, partner, or employee of such employer or principal under any dual capacity theory or doctrine.
>
> (2) For purposes of this Section, the word "principal" shall be defined as any person who undertakes to execute any work which is a part of his trade, business, or occupation in which he was engaged at the time of the injury, or which he had contracted to perform and contracts with any person for the execution thereof.
>
> B. Nothing in this Chapter shall affect the liability of the employer, or any officer, director, stockholder, partner, or employee of such employer or principal to a fine or penalty under any other statute or the liability, civil or criminal, resulting from an intentional act.
>
> *.*.*

According to the briefs, plaintiffs have collected workers' compensation benefits.

Compensation Law. Plaintiffs argue that Equilon was "substantially certain" that this particular vent/drain would clog or fail and cause hot steam condensate to overflow onto nearby workers, citing its knowledge of said past incidents and the causes thereof, as discussed below.

Pertinent to the instant appeal, Equilon filed a motion for summary judgment on December 20, 2022 on the issue of the applicability of the "intentional act exception" to the "exclusive remedy" provisions of the Louisiana Workers' Compensation Law, found in La. R.S. 23:1032(B), arguing that plaintiffs would not be able to bear their burden of proof at trial, and thus they are limited to recovery of workers' compensation benefits. After additional discovery was conducted, Equilon filed a supplemental motion for summary judgment, essentially making the same arguments previously made. In its motion for summary judgment, Equilon argued that under the standards imposed by applicable jurisprudence interpreting the "intentional act exception" found in La. R.S. 23:1032(B), plaintiffs would not be able to meet their burden of proof at trial that Equilon "consciously desired" the hot steam condensate to fall on plaintiffs, and that Equilon knew that it was "inevitable" that the hot steam condensate would fall on plaintiffs.

In opposition, plaintiffs argued first that there is ample evidence that Equilon's conduct amounted to an "intentional act" under the Louisiana Workers' Compensation Law, based on the previous similar incidents at the same facility and the remedies Shell identified in response to the previous incidents, which Shell allegedly did not undertake. Plaintiffs argued that a genuine issue of material fact remains for the jury to determine whether Shell's acts or omissions amount to an "intentional act" under the Louisiana Workers' Compensation Law. Plaintiffs also argued that Equilon's motion was premature, as Equilon failed to produce relevant documents that were still being identified in depositions of Equilon's employees.

In reply, Equilon first asserted that plaintiffs have had more than an "adequate opportunity for discovery," per La. C.C.P. art. 966(A)(3), citing that over two years had been available for discovery. Equilon also reiterated its arguments that plaintiffs can produce no evidence that Equilon knew with "substantial certainty," as that term is defined in the jurisprudence, that the incident in question was going to occur. Equilon noted that: (1) the subject accident represented the first time Equilon had any knowledge that hot condensate would spew from the subject vent in a way to injure people nearby; and (2) Equilon had no pre-accident knowledge of any of the factors that contributed to causing the accident relative to the subject equipment.

A hearing on the motion for summary judgment was conducted on August 8, 2024. At the end of the hearing, the trial court ruled from the bench, orally finding that plaintiffs failed to present sufficient evidence of any activity constituting an "intentional act" by Equilon as contemplated by La. R.S. 23:1032(B), and thus dismissed plaintiffs' "intentional act" tort claims against Equilon with prejudice. A written judgment to this effect was signed by the trial court on August 14, 2024. This timely appeal followed.

ANALYSIS

"After an opportunity for adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law." La. C.C.P. art. 966(A)(3). "The burden of proof rests with the mover. Nevertheless, if the mover will not bear the burden of proof at trial on the issue that is before the court on the motion for summary judgment, the mover's burden on the motion does not require him to negate all essential elements of the adverse party's claim, action, or defense, but rather to point out to the court the absence of factual support for one or more elements essential to the

adverse party's claim, action, or defense. The burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law." La. C.C.P. art. 966(D)(1).

Appellate courts review summary judgments *de novo* using the same criteria that govern the trial court's consideration of whether summary judgment is appropriate. Thus, appellate courts ask the same questions the trial court does in determining whether summary judgment is appropriate: whether there is any genuine issue of material fact, and whether the mover is entitled to judgment as a matter of law. *Migliore v. Ambassador P'ship, LLC*, 22-599 (La. App. 5 Cir. 12/1/23), 376 So.3d 1178, 1182. The motion for summary judgment is a proper procedural device to penetrate the plaintiff's allegations that the injuries resulted from an intentional tort. *Snow v. Lenox Int'l*, 27,533 (La. App. 2 Cir. 11/1/95), 662 So.2d 818, 820.

The decision as to the propriety of a grant of a motion for summary judgment must be made with reference to the substantive law applicable to the case. *Bach v. Bd. of River Port Pilot Comm'rs*, 15-765 (La. App. 5 Cir. 5/12/16), 193 So.3d 355, 362. The substantive law applicable to this case is the Louisiana Workers' Compensation Law, La. R.S. 23:1020.1, *et seq*.

The Louisiana Workers' Compensation Law provides for compensation if an employee "receives personal injury by accident arising out of and in the course of his employment." La. R.S. 23:1031. As a general rule, the rights and remedies granted to an employee under the Louisiana Workers' Compensation Law are "exclusive of all other rights, remedies, and claims for damages … against his employer, or any principal or any officer, director, stockholder, partner, or employee of such employer or principal, for said injury, or compensable sickness or disease." La. R.S. 23:1032(A)(1)(a). However, an exception to this rule

provides that nothing in the Louisiana Workers' Compensation Law "shall affect the liability of the employer, or any officer, director, stockholder, partner, or employee of such employer or principal to a fine or penalty under any other statute or the liability, civil or criminal, resulting from *an intentional act*." La. R.S. 23:1032(B). (Emphasis added.) In interpreting this statute, the Louisiana Supreme Court has held that workers' compensation shall be an employee's exclusive remedy against his employer for an unintentional injury covered by the act, but that nothing shall prevent an employee from recovering from his employer under general law for an intentional tort. *Young v. Doe*, 11-49 (La. App. 5 Cir. 5/24/11), 67 So.3d 632, 634, citing *Bazley v. Tortorich*, 397 So.2d 475 (La. 1981), and *Caudle v. Betts*, 512 So.2d 389, 390 (La. 1987).

In the seminal case of *Reeves v. Structural Pres. Sys.*, 98-1795 (La. 3/12/99), 731 So.2d 208, the Louisiana Supreme Court provided guidance as to the meaning of terms involved in the analysis of claims of this type, stating at 213:

> "Substantially certain to follow" requires more than a reasonable probability that an injury will occur and "certain" has been defined to mean "inevitable" or "incapable of failing." [A]n employer's mere knowledge that a machine is dangerous and that its use creates a high probability that someone will eventually be injured is not sufficient to meet the "substantial certainty" requirement. Further, mere knowledge and appreciation of a risk does not constitute intent, nor does reckless or wanton conduct by an employer constitute intentional wrongdoing.

(Internal citations omitted.) The court further stated that the intentional act exclusion has been narrowly construed according to its legislative intent. *Id.* at 211.

In its discussions regarding the scope of the "substantial certainty" element, the Supreme Court has explained that "[b]elieving that someone may, or even probably will, eventually get hurt if a workplace practice is continued does not rise to the level of an intentional act, but instead falls within the range of negligent acts that are covered by workers' compensation." *Reeves,* 731 So.2d at 212. The court

also cited to the following example as an explanation of the "substantial certainty" element:

> … In human experience, we know that specific consequences are substantially certain to follow some acts. If the actor throws a bomb into an office occupied by two persons, but swears that he only "intended" to hurt one of them, we must conclude that he is nonetheless guilty of an intentional tort as to the other, since he knows to a virtual certainty that harmful consequences will follow his conduct, regardless of his subjective desire.

Id. at 212-13, citing Malone & Johnson, *Louisiana Civil Law Treatise, Volume 14, Workers' Compensation Law & Practice*, § 365, p. 208.

Subsequent to *Reeves*, the Supreme Court held that "[t]o recover in tort against [his employer] under La. R.S. 23:1032(B), [a plaintiff] must prove the employer (1) *consciously desired* the physical result of its act, whatever the likelihood of that result happening from its conduct, or (2) knew that the result is *substantially certain* to follow from its conduct, whatever its desire may be as to that result." (Emphasis added.) *Miller v. Sattler Supply Co., Inc*., 13-2558 (La. 1/27/14), 132 So.3d 386, 387, citing *Moreau v. Moreau's Material Yard*, 12-1096 (La. 9/21/12), 98 So.3d 297.[5]

At the trial of this matter, plaintiffs would bear the burden of proving facts that show the "intentional act" exception to the exclusivity of workers' compensation applies to this case. In its motion for summary judgment, Equilon pointed out the lack of factual support for the application of the exception. In their opposition thereto, plaintiffs argued that Equilon was "substantially certain" that this particular vent/silencer was certain to malfunction and cause injury based on facts contained in the Causal Investigation Report ("CIR") performed by Equilon after the incident.[6]

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[5] Plaintiffs have not argued that Equilon "consciously desired" the physical result of the act (the release of hot steam condensate that caused their injuries).

[6] Plaintiffs also supported their opposition with the affidavit of plaintiff Joany Zamora and attached exhibits, as well as the affidavit of their expert Jennifer Morningstar, who analyzed

The material facts involved in this matter are not in dispute. According to the CIR, "[o]n 12/10/2019 at approximately 9:46 AM, Brand employees were working on an elevated platform on the south side of E-7228 LGO coolers, when hot steam condensate vented from a nearby steam vent/silencer, A-7179, and injured three Brand employees with first and second degree burns." The CIR reported that the venting lasted a few seconds. The CIR determined that the drain piping had been restricted, causing a buildup of pressure and the venting of the condensate. The CIR details the measures taken to determine the cause of the venting and the steps to allow the drain system to flow freely.

Plaintiffs highlighted that the CIR noted "[p]revious injuries have occurred at Norco under very similar circumstances, with plugged common drain piping venting steam condensate out of the top of the vent/silencer." Plaintiffs pointed out at least three prior incidents, two at the Shell Norco facililty and one at a "similarly designed" Shell plant in California, involving plugged drain lines in similar equipment (but not this same equipment) that caused either hot condensate to expel and spew into the air, or objects to eject therefrom. Plaintiffs argue that Equilon knew about these incidents, had identified the causes, and had recommended remedial measures to prevent their recurrences, yet Equilon failed to implement the recommended remedial measures. Plaintiffs argue that this confluence amounted to Equilon's "substantial certainty" that this particular incident would occur and cause injury to employees such as plaintiffs, which is the requisite for a finding of an "intentional act" sufficient to find Equilon liable in tort to plaintiffs.

The first incident noted was reported to have occurred in the "Coker unit" at Shell Norco in June of 2010. According to the investigation report of this incident,

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the reports of the incidents from 2010, 2016, and 2019, the California incident of 2017, and other discovery produced in this matter, to conclude that the 2019 incident was "inevitable."

two instrument mechanics were burned with hot condensate while repairing instrumentation for the steam generator in the Coker unit. Evidently, hot condensate collected in the piping leading to a vent stack, which then "burped" or "spewed" hot condensate from the atmospheric vent onto the mechanics working below. A reduction of the piping size routed to the drain hub (1 inch reduced to ½ inch) was identified as a cause, and the recommended remedial measure was to correct the piping reduction in that particular location, and to ensure that each vent stack had its own individual drain. The report noted that the atmospheric vent stacks are designed "to relieve to the atomophere," and that similar vent stacks were located throughout the refinery "with no protection to anyone working underneath the stack when there is a unit upset involving the vent stack."

Plaintiffs' opposition next noted a 2016 incident, also at the Coker unit, where a muffler (silencer) "burped" hot condensate onto a worker. An incident report identified the cause of the incident as a plugged drain line to the muffler, which allowed water to build up from venting steam. The identified remedial measures included verifying that drain lines were open.

Plaintiffs further noted a third, allegedly similar, incident that took place at Shell's Martinez refinery in California in January of 2017. According to the report of this incident, a section of the equipment itself (a three-foot section of an internal sound diffuser) fell to the ground after pressure built up in the equipment due to a plugged drain line. This incident did not cause any injuries, as no one was in the immediate surroundings at that time.

Additionally, plaintiffs noted five other Shell incident reports in 2012 which identified atmospheric vents which had the potential to spew, splash, or spray hot water or condensate on personnel working or walking in the area.

It appears that a common issue in the incidents plaintiffs cited were drain lines that were fully or partially obstructed, causing the back up of hot condensate

and/or pressure. Though the 2010 incident and the 2016 incident did not involve the same piece of equipment or the same location in the plant as the equipment that injured plaintiffs, plaintiffs argue that both incidents were "substantially similar" to the instant incident, creating missed opportunities for Equilon to undertake corrective actions to prevent similar incidents, such as the instant incident. Plaintiffs cite the 2017 incident at the California facility to further show Equilon's knowledge that insufficient drain lines had additionally caused potentially harmful incidents elsewhere.

Equilon points out, however, that the particular piece of equipment involved in the instant incident (the vent/silencer) had no history of venting hot condensate and no warning signs that it would do so. Equilon further notes that the 2010 and 2016 incidents involved similar but different equipment in different areas of the facility. It also points out that the incident reports from 2012 did not result in injury to anyone.

Plaintiffs cite *Rhine v. Bayou Pipe Coating*, 11-724 (La. App. 3 Cir. 11/2/11), 79 So.3d 430, in support of their position. In that case, the Third Circuit affirmed the trial court's finding that the plaintiff's employer was liable for an intentional act when an employee's death was caused by the lack of safety guards around a "turning pipe." *Id.* at 441. The court based its determination upon a previous incident approximately two years earlier when another employee was pulled by a loose tape over the turning pipe, but his foot hit the safety switch turning off the conveyor belt and sparing him injury. The court found that the earlier incident placed the employer on notice that the apparatus was potentially dangerous and that safety measures were required—that Bayou Pipe Coating failed to implement—leading to the death of Rhine. *Id.* at 438-40. It is noted that the Supreme Court granted a writ of certiorari in the case: *Rhine v. Bayou Pipe Coating*, 12-0197 (La. 4/20/12), 85 So.3d 1279; however, it appears that the matter

settled before the writ was heard, as no further decision is extant. *Rhine*'s precedential value, therefore, is limited.

In opposition, Equilon relies upon the Supreme Court's opinion in *Reeves v. Structural Preservation Systems*, *supra*, arguing that all evidence cited by plaintiffs merely showed that Equilon had *some* knowledge of prior incidents with similar circumstances, but such knowledge does not meet La. R.S. 23:1032(B)'s high threshold for finding an intentional act.

As the Third Circuit noted in *Reeves v. Structural Preservation Systems*, 97-1465 (La. App. 3 Cir. 6/3/98), 716 So.2d 58, 60-61, the employee was injured after he was directed to move a sandblasting pot manually, a procedure which was prohibited by OSHA and which the employee's supervisor feared would eventually lead to injury.[7] Though Reeves and others had moved the pot in the past without incident, on the day in question, Reeves and another employee were moving the pot manually when it fell on Reeves, crushing his knee and injuring his back. *Id.* Reeves filed suit against his employer and its insurer in tort, alleging an intentional act under La. R.S. 23:1032(B). After a two-day trial, the jury found that the defendant employer committed an intentional act and awarded Reeves tort damages. *Id.* at 59. The Third Circuit affirmed. *Id.* at 61.

The Supreme Court reversed, however, finding that Reeves was limited to recovery of workers' compensation benefits, concluding that "[t]he employer's conduct in this case, while negligent or perhaps even grossly negligent, does not meet the 'substantial certainty' requirement of the intentional act exception to the Workers' Compensation Act found in La. R.S. 23:1032." *Reeves v. Structural Pres. Sys.*, 98-1795 (La. 3/12/99), 731 So.2d 208, 213. Citing the legislative history of the act that added the "intentional act" exception to La. R.S. 23:1032, the

[7] The sandblasting pot weighed between 350-400 pounds when empty and could hold up to 1000 pounds of sand.

court noted the legislature's *rejection of two amendments* that would have allowed an employee to recover in tort for *gross negligence* and/or for injury caused by the employer's *violation of a recognized safety rule or regulation*. *Id.* at 210. Further, as noted above, the Court stated that "substantially certain to follow" requires more than a reasonable probability that an injury will occur, and "certain" has been defined to mean "inevitable" or "incapable of failing." The court also stated that an employer's mere knowledge that a machine is dangerous and that its use creates a high probability that someone will eventually be injured is not sufficient to meet the "substantial certainty" requirement. The court also found that mere knowledge and appreciation of a risk does not constitute intent, nor does reckless or wanton conduct by an employer constitute intentional wrongdoing. *Id.* at 213. Finally, the court acknowledged that the appellate courts have likewise narrowly construed the intentional act exception according to its legislative intent, and have almost universally held that employers are not liable under the intentional act exception for violations of safety standards or for failing to provide safety equipment, citing many lower court opinions as examples. *Id.* at 211-12.

In *Reeves*, 731 So.2d at 211, the court noted its reversal of this Court's opinion in *Casto v. Fred's Painting, Inc*., 96-405 (La. App. 5 Cir. 1/15/97), 688 So.2d 72, *writ granted, judgment rev'd*, 97-0374 (La. 4/4/97), 692 So.2d 408, wherein this Court had held that an employee's back injury, which occurred when he came into contact with the employer's refrigerator that emitted an electrical shock *each and every time* an employee came into contact with its metal surface, came within the intentional act exception to the exclusive remedy provision of workers' compensation law. This Court noted that the problem had been reported to the employer multiple times, finding that the plaintiff proved the employer knew that injury was "substantially certain to follow." 688 So.2d at 75. In a memorandum opinion, however, the Supreme Court reversed and granted summary

judgment in favor of the employer and dismissed the plaintiff's suit against the employer with prejudice, essentially finding that the "intentional act" exception did not apply under these facts, thus limiting the employee to recovery of workers' compensation benefits. 692 So.2d at 408.[8]

Upon *de novo* review, in light of the foregoing, we conclude that the current case presents far less compelling facts than *Casto*, which was nonetheless reversed. The particular vent/silencer in question that expelled hot condensate, and the drain associated with it, had no identified history of this behavior, unlike the refrigerator in *Casto*. What plaintiffs have shown is that Equilon knew about prior incidents relative to different equipment with similar but different design features and in different locations of this and another Shell plant. Equilon has shown that vent/silencers and pipes with drains are located throughout the entire Norco facility, most of which run 24 hours per day unless stopped by a plant "turnaround." We find that the past frequency of similar incidents (2010 and 2016 events in Norco, and the 2017 event in California, plus several incident reports involving the Norco facility in 2012 that did not result in injury), relative to the amount and scope of operations at Norco, do not compel the conclusion that Equilon was "substantially certain" that *this particular vent/silencer and associated drain* would obstruct and vent condensate. As such, plaintiffs failed to produce factual support sufficient to establish an "intentional act" on the part of Equilon within the meaning of La. R.S. 23:1032(B) resulted in plaintiffs' injuries.[9]

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[8] Specifically, the full memorandum opinion is as follows:

> Granted. Judgment of the trial court is reversed. Summary judgment is granted in favor of Fred's Painting, Inc. and Manfred Nicklas, dismissing plaintiff's suit against them with prejudice. See *Alexander v. Ingersoll-Rand,* 661 So.2d 1365 (La. 1995).

[9] We are mindful of *Higgins v. Williams Energy Partner, L.P.*, 17-1662 (La. App. 1 Cir. 12/12/18), 267 So.3d 1133, *writ granted, judgment rev'd,* 19-49 (La. 3/6/19), 266 So.3d 897. In that case, the First Circuit reviewed a summary judgment granted in favor of the employer, affirming the district court's factual conclusion that the employer knew that a blocked reboiler was a hazard and it was not evident that the employer was "substantially certain" that the chemical explosion was to occur from that hazard. 267 So.3d at 1140-42. In a memorandum

CONCLUSION

Considering the undisputed facts present in this case, we conclude that Equilon has pointed out to the court the absence of factual support for one or more elements essential to plaintiffs' "intentional act" tort claims. We further find that plaintiffs have failed to produce factual support sufficient to establish the existence of a genuine issue of material fact or that Equilon is not entitled to judgment as a matter of law, on the issue of the applicability of the "intentional act" exception to the exclusivity of workers' compensation found in La. R.S. 23:1032(B). *See* La. C.C.P. art. 966(D)(1). Accordingly, we find that the trial court did not err in granting Equilon's motion for summary judgment.

DECREE

For the foregoing reasons, the summary judgment granted in favor of Equilon, dismissing plaintiffs' "intentional act" tort claims with prejudice, is affirmed.

AFFIRMED

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opinion, the Supreme Court reversed the grant of summary judgment, finding that "there remain genuine issues of material fact as to whether the defendant is liable to this plaintiff as the result of an intentional act pursuant to La. Rev. Stat. 23:1032(B). See La. Code Civ. Proc. art. 966(D)(1). The matter is remanded to the district court for further proceedings." 266 So.3d at 897.

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MAY 14, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

24-CA-507

E-NOTIFIED
29TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE CONNIE M. AUCOIN (DISTRICT JUDGE)
DANIEL J. DYSART (APPELLANT)
DANIELLE TEUTONICO (APPELLANT)
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