STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

GUSTAVE J. LABARRE, JR., ET AL.

NO. 2016 CW 0265

VERSUS

TEXAS BRINE COMPANY, LLC AND GEORGIA GULF CHEMICAL & VINYLS, LLC

DEC 0 2 2016

In Re: Indian Harbor Insurance Company, applying for supervisory writs, 23rd Judicial District Court, Parish of Assumption, No. 30650.

BEFORE: McDONALD, McCLENDON AND WELCH, JJ.

WRIT GRANTED. The trial court committed manifest error in finding that Texas Brine's claims of breach of the insurer's duty of good faith and fair dealing, asserted in Texas Brine's First Amended and Supplemental Third-Party Petition, filed on August 7, 2014, and claims of breach of the insurer's duty to investigate, asserted in Texas Brine's Second Amended and Supplemental Third-Party Petition, filed on November 10, 2014, constituted continuing torts. The trial court also erred in finding that a ten-year prescriptive period was applicable to these claims, that these claims against Indian Harbor were not prescribed and in not maintaining Indian Harbor's exceptions of prescription as to these claims. In this matter, there was no continuous conduct that caused continuing damages and Texas Brine did not file its first and second amended and supplemental third-party petitions against Indian Harbor until 2014, after the one-year prescriptive period expired. See **Bustamento v. Tucker**, 607 So.2d 532 (La. 1992). Accordingly, the trial court is ordered to vacate the June 22, 2015 judgment overruling the exceptions raising the objections of prescription and enter a judgment granting the exceptions and dismissing the claims asserted by Texas Brine against Indian Harbor in the first and second amended and supplemental third party petitions.

JMM
JEW

McClendon, J., concurs.

COURT OF APPEAL, FIRST CIRCUIT

Elizabeth D. Nauta

DEPUTY CLERK OF COURT
FOR THE COURT