

Susman Godfrey Wins \$43.2 Million Federal Court Jury Verdict for Apache Deepwater LLC against W&T Offshore, Inc.

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A federal court jury yesterday awarded \$43,214,515.83 in favor of Apache Deepwater LLC and against W&T Offshore, Inc. After a two week trial, the jury unanimously found that W&T Offshore breached its contractual obligation to pay its 49% share of the costs to plug and abandon three deepwater subsea oil and gas wells in the Gulf of Mexico.

Apache Deepwater (an affiliate of Apache Corporation) claimed that W&T breached the parties' operating agreement over three deepwater wells in Mississippi Canyon Block #674 by refusing to pay its 49% share of plugging and abandonment costs for the wells.

Apache had a 51% interest in the three wells and was the designated operator. W&T had a 49% interest in the wells and was the non-operator.

Apache used drilling rigs successfully and safely to plug and abandon the three deepwater wells in compliance with federal regulations, and invoiced W&T for its 49% share of the costs. Although federal law and the contract required the wells to be plugged and abandoned, W&T refused to sign Apache's Authorizations for Expenditure and refused to pay its share of the costs because it objected to Apache's use of drilling rigs. W&T had wanted Apache to use what the evidence showed was a less capable and more risky intervention vessel called the Helix 534 that W&T thought would be less expensive. The Helix 534 has been idle, unused, and kept in storage for nearly 1 ½ years.

In December 2014, Apache sued W&T for breach of contract. In February 2015, W&T made a partial payment to Apache of \$24.8 million which was based on W&T's pre-operation theoretical cost estimate derived from certain counter-factual assumptions. W&T's partial payment left an unpaid balance of \$43.2 million, the amount Apache sought and won in today's verdict.

After a two week trial, the jury found that W&T had breached the parties' contract and awarded Apache \$43.2 million as compensation for W&T's breach.

Geoffrey L. Harrison, a partner in Susman Godfrey LLP's Houston office, was Apache's lead trial lawyer. Harrison told the jury that W&T's purported reasons for refusing to pay were "nothing short of madness." Harrison said that "Apache acted exactly the way good, ethical, and prudent operators should act and, despite W&T's breach of contract, Apache plugged and abandoned all three wells safely, successfully, and in compliance with US regulations."

Harrison noted that Apache's recovery on the jury's \$43.2 million verdict plus the \$24.8 million that W&T paid after Apache filed the lawsuit would result in Apache recovering a total of \$68 million potentially plus millions more in interest and attorneys' fees. Harrison said that the jury's bad faith and \$17 million offset finding are of no legal consequence under the controlling Louisiana law and do not provide a basis to reduce the jury's \$43.2 million verdict for Apache.

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Susman Godfrey partner William R.H. Merrill gave the opening statement in the case and said “the jury sent a strong message to W&T that it is wrong for non-operators to interfere with governmentally-required plugging and abandoning operations in the Gulf of Mexico.”

Associates Ashley L. McMillian and Abigail C. Noebels rounded out the Susman Godfrey trial team and both examined witnesses at trial and argued multiple hotly disputed motions.

In a different federal court jury trial back in 2014, Harrison, Merrill and Noebels had won a defense verdict for Apache against breach of contract claims asserted by W&T. Harrison said today’s \$43.2 million plaintiff-side win for Apache coupled with 2014’s defense-side win for Apache was “quite a double whammy win for Apache and a real wake up call for W&T.”

The case that Apache won with today’s jury verdict is Apache Deepwater LLC v. W&T Offshore, Inc., Civil Action No. H-15-0063, in the District Court of Harris County, Texas (Judge David Hittner).

Apache was represented in the lawsuit by Geoffrey L. Harrison, William R.H. Merrill, Ashley L. McMillian, and Abigail C. Noebels of Susman Godfrey LLP in Houston, Texas.

W&T was represented by David Beck, Bryon Rice, and Joshua Lee of Beck Redden LLP in Houston, Texas.

The case that Apache won in December 2014 was W&T Offshore, Inc. v. Apache Corporation, Civil Action No. 4:11cv2931, in the United States District Court for the Southern District of Texas (Judge Lee H. Rosenthal).