

FIFTH CIRCUIT UPDATE

DAVID S. COALE

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“The 5th U.S. Circuit Court of Appeals is widely viewed as one of the nation's most conservative federal appellate courts . . . ”

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PLEADINGS

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Fed'l Ins. v. Northfield Ins., 837 F.3d 548 (5th Cir. 2016)

“But because of the **breadth and generality** of the allegations in ExxonMobil's state court petition, we cannot say that all of the claims fall clearly within the exclusion. . . . ExxonMobil's petition does not attach any of the petitions in the Louisiana Litigation. . . . ExxonMobil's petition asserts only that ‘[a]ll three lawsuits in the underlying [Louisiana] litigation allege environmental damage and seek restoration and remediation of the land subject to mineral rights purchased by the Wagner Group.’ . . . [T]hese assertions do not clearly allege claims that are all excluded by the Pollution Endorsement.”

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“To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.”

Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009).

Alexander v. Ameripro,
848 F.3d 698 (5th Cir. 2017)

“These plaintiffs have plausibly alleged that AmeriPro refused to consider their Section 8 income in assessing their creditworthiness as mortgage applicants, and that they received mortgages on less favorable terms and in lesser amounts than they would have had their Section 8 income been considered.”

Thomas v. Chevron USA,
832 F.3d 586 (5th Cir. 2016)

“Thomas alleged that Chevron knew about of the real risk of piracy in the region and of the specific threats received by the [ship]. He alleged that despite its knowledge, Chevron requested that the [ship] take an unaccompanied support trip that would pass by the source of the recent threats. Finally, he alleged that Chevron broadcast his route information and locations over easily-accessible VHF radios, through which they could be heard by pirates known to be in the area.”

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