

# 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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Political Conservatism

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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 (5<sup>th</sup> 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 (5<sup>th</sup> 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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