SUPREME COURT OF LOUISIANA

NO. 2025-CC-00971

VINTON HARBOR & TERMINAL DISTRICT

Plaintiff/Applicant

VERSUS

REUNION ENERGY COMPANY, ET AL.

Defendant/Respondent

On Application for Writ of Certiorari or Review to the Louisiana Court of Appeal, Third Circuit, Docket No. 2035-CA-0063, and the 14th Judicial District Court, Parish of Calcasieu, No. 2023-4530, Honorable Bobby L. Holmes, presiding.

MOTION FOR LEAVE TO FILE ORIGINAL BRIEF OF *AMICUS CURIAE* IN SUPPORT OF DEFENDANT, HONEYWELL INTERNATIONAL INC. BY THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

NOW INTO COURT, through undersigned counsel, comes the Chamber of Commerce of the United States of America (the "Chamber"), who respectfully moves this Court to file its original brief as *Amicus Curiae* on the merits in support of the defendants and respondents, Honeywell International Inc. and Texas Pacific Oil Company, Inc. Pursuant to Supreme Court Rule VII, Section 12, the Chamber satisfies the following criteria for submitting a brief as *amicus curiae*:

1.

The Chamber is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. The Chamber regularly files amicus curiae briefs in cases that raise issues of concern to the Nation's business community. This case presents such an issue.

2.

Matters of Fact or Law that Might Otherwise Escape the Court's Attention. The Chamber submits that leave is warranted because it will address how reliance on the subsequent-purchaser rule fits within Louisiana's commercial markets, including how transactions are priced, financed, insured, and structured in light of litigation risk, along with the statewide consequences that would follow from reversing the rule. Those issues are directly relevant to this Court's analysis of stability in the law. Indeed, the role of *jurisprudence constante* ensures "certainty and constancy" in Louisiana law (particularly in property), and attempting to carve out a discovery-driven "nonapparent damage" exception to the rule (an exception that *Eagle Pipe* already rejected) is not supported by Louisiana's distinction between real and personal rights. Finally, the Chamber's brief addresses consequences that extend beyond this case but are central to the Court's analysis, namely, that overruling *Eagle Pipe* would make Louisiana a national outlier.

3.

Substantial, Legitimate Interest in the Outcome. Leave is also warranted because the Chamber has a substantial and legitimate interest in the outcome. The Chamber is a nationwide industry association with members that buy, sell, lease, develop, and operate on property across Louisiana. Overruling or modifying the subsequent-purchaser rule directly affects the members' liability exposure, the cost and availability of insurance and credit, and investment decisions. The Chamber seeks to provide this Court with the broader policy considerations stemming from a reversal of *Eagle Pipe*, which include creating instability and unpredictability in property transactions. In short, the Chamber's participation will assist the Court in resolving a question of statewide importance.

WHEREFORE, the Chamber, as *amicus curiae*, requests this Court grant leave to file the attached brief.

RESPECTFULLY SUBMITTED

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CERTIFICATE OF SERVICE

I certify that a copy of the above and foregoing Motion for Leave to file Original Brief of *Amicus Curiae*, the Chamber of Commerce of the United States of America, has been served upon all counsel of record by electronic mail this 20th day of January, 2026.

/s/ Claire E. Juneau

SUPREME COURT OF LOUISIANA

NO. 2025-CC-00971

VINTON HARBOR & TERMINAL DISTRICT

Plaintiff/Applicant

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A CIVIL PROCEEDING

ORDER

CONSIDERING the Motion for Leave to file Original Brief of *Amicus Curiae* in support of Defendants-Respondents, Honeywell International Inc. and Texas Pacific Oil Company, Inc., filed on behalf of the Chamber of Commerce of the United States of America in the above captioned matter,

IT IS ORDERED that the Brief of *Amicus Curiae*, the Chamber of Commerce of the United States of America is hereby filed into the record.

New Orleans, Louisiana this _____ day of _____ 2026.

_____

Justice/Clerk of Court, Louisiana Supreme Court

SUPREME COURT OF LOUISIANA

NO. 2025-CC-00971

VINTON HARBOR & TERMINAL DISTRICT

Plaintiff/Applicant

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A CIVIL PROCEEDING

ORIGINAL BRIEF OF AMICUS CURIAE IN SUPPORT OF DEFENDANT-RESPONDENT, HONEYWELL INTERNATIONAL INC., BY THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

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MAY IT PLEASE THE COURT:

For more than a century, Louisiana courts have consistently applied a settled rule of property law: a purchaser of property generally has no right of action to recover for damage to the property that was inflicted before the purchaser acquired title, absent an express assignment or subrogation of a pre-existing claim for such damage.[1] In 2011, this Court reaffirmed this "general Louisiana rule" in *Eagle Pipe & Supply, Inc. v. Amerada Hess Corp.*, tracing the rule's "reasoning and development … [to] over more than a hundred years of jurisprudence" and grounding it in the civilian distinction between real rights that transfer with the thing and personal rights that do not. 10-2267 (La. 10/25/11), 79 So. 3d 246, 256; *see also Clark v. J.L. Warner & Co.*, 6 La. Ann. 408 (1851). The stability of that rule promotes certainty in property transactions: buyers remain free to bargain for an assignment of claims in the act of sale. And absent such a stipulation, the buyer's remedies sound in the sale itself (*e.g.*, rescission or price reduction), rather than in an automatically transferred personal claim for property damage.

Plaintiff asks this Court to discard the subsequent-purchaser rule and replace it with a regime under which a buyer automatically acquires a predecessor's property-damage claims for pre-acquisition injury to property, even when the act of sale contains no assignment or subrogation. But *Eagle Pipe* emphasized that these are "deliberate legislative choices" integral to certainty in immovable-property transactions and that, absent legislative action, "we cannot supply a right of

[1] The subsequent-purchaser rule has been consistently applied both before and after this Court's decision in *Eagle Pipe*. *See, e.g., Vinton Harbor.*, 2025-63 (La. App. 3 Cir. 7/2/25), 417 So.3d 1028, *writ granted*, 2025-00971 (La. 11/25/25).*Levert v. Union Tex. Int'l Corp.*, 2023-0534 (La. App. 1 Cir. 12/23/24), 404 So. 3d 945; *La. Wetlands, LLC v. Energen Res. Corp.*, 2021-0290 (La. App. 1 Cir. 10/4/21), 330 So. 3d 674; *Litel Explorations, L.L.C. v. Aegis Dev. Co., L.L.C.*, 20-373 (La. App. 3 Cir. 11/12/20), 307 So. 3d 1087; *Grace Ranch, LLC v. BP Am. Prod. Co.*, 2017-1144 (La. App. 3 Cir. 7/18/18), 252 So. 3d 546; *Guilbeau v. Hess Corp.*, 854 F.3d 310, 312–15 (5th Cir. 2017); *Bundrick v. Anadarko Petroleum Corp.*, 2014-0993 (La. App. 3 Cir. 3/4/15), 159 So. 3d 1137; *Walton v. Exxon Mobil Corp.*, 49,569 (La. App. 2 Cir. 2/26/15), 162 So. 3d 490, *writ denied*, 2015-0569 (La. 11/16/15), 184 So. 3d 25; *Global Mktg. Solutions, LLC v. Blue Mill Farms, Inc.*, 2013-2132 (La. App. 1 Cir. 9/19/14), 153 So. 3d 1209; *Boone v. ConocoPhillips Co.*, 2013-1196 (La. App. 3 Cir. 5/7/14), 139 So. 3d 1047; *Duck v. Hunt Oil Co.*, 2013-0628 (La. App. 3 Cir. 3/5/14), 134 So. 3d 114; *LeJeune Bros., Inc. v. Goodrich Petroleum Co., L.L.C.*, 2006-1557 (La. App. 3 Cir. 11/28/07), 981 So. 2d 23; *Frank C. Minvielle, L.L.C. v. IMC Global Operations, Inc.*, 380 F. Supp. 2d 755 (W.D. La. Oct. 19, 2004); *St. Martin v. Mobil Expl. & Producing U.S., Inc.*, No. 95-4128, 1998 WL 474211, at *3 (E.D. La. Aug. 12, 1998); *St. Jude Med. Office Bldg. Ltd. P'ship v. City Glass & Mirror, Inc.*, 619 So. 2d 529 (La. 1993); *Dorvin Land Corp. v. Parish of Jefferson*, 469 So. 2d 1011 (La. App. 5 Cir. 1985); *Prados v. South Central Bell Tel. Co.*, 329 So. 2d 744 (La. 1975), *on reh'g*, (La. 1976); *Gumbel v. New Orleans Terminal Co.*, 197 La. 439, 1 So. 2d 686 (1941); *Taylor v. New Orleans Terminal Co.*, 126 La. 420, 52 So. 562 (1910); *McCutchen v. Texas & Pac. Ry. Co.*, 118 La. 436, 43 So. 42 (1907); *Bradford v. Richard*, 46 La. Ann. 1530, 16 So. 487 (1894).

action through jurisprudence which the law does not." 79 So. 3d at 276. Reversal would do more than expand standing; it would make Louisiana a national outlier from nearly every other state which uniformly apply similar rules in property transactions and reverse over a century of well-settled *jurisprudence constante*. It would convert historical property-damage claims into a commodity that presumptively follows every deed, inviting windfall recoveries and a cottage industry of litigation purchasers who acquire property not to use it, but to sue over long-past conditions. And it would reduce the progress recently made by this Court to improve the reputation of Louisiana's legal climate among the business community.

ARGUMENT

I. The subsequent-purchaser rule comes from over a century of well-settled property law.

Plaintiff asks this Court to repudiate over a century of Louisiana property law which the *Eagle Pipe* court found was compelled by "fundamental principles" within the Civil Code. Moreover, the subsequent-purchaser rule is not some Louisiana peculiarity; it is recognized nationwide, including by the United States Supreme Court. Under Louisiana's civilian method, where *jurisprudence constante* safeguards the "certainty and constancy" indispensable to orderly economic life, this is precisely the kind of longstanding and uniform rule, on which parties to important business transactions have relied for many decades, that should not be reversed absent a decision by the legislature. Such "certainty and constancy" is especially important in property transactions which are priced, negotiated, and closed with the settled understanding that the only claims that change hands in the sale are the claims that were expressly transferred by the seller to the purchaser.

A. *Eagle Pipe* merely confirmed what has always been the rule.

Eagle Pipe held that "the fundamental principles of Louisiana property law compel the conclusion" that "a subsequent purchaser of property does not have the right to sue a third party for non-apparent property damages inflicted before the sale in the absence of an assignment of or subrogation to that right." 79 So. 3d 246. This Court grounded that holding in a fundamental (and widely shared) distinction: ownership of the *thing* transfers by sale, but a claim for past injury to the thing is a *personal right* that remains with the person who owned the property at the time of the injury, unless that claim is expressly transferred. *Id.* at 251-262 (discussing La. Civ. Code art. 1764 and revision comments).

Plaintiff does not merely ask this Court to disregard its holding in *Eagle Pipe*, but to also upend over a century of settled property law, undermining the certainty and predictability on which property transactions depend. Louisiana's civilian tradition begins with the Civil Code's premise that the "sources of law are legislation and custom." La. Civ. Code arts. 1, 3. From this premise, this Court recognizes the civilian principle of *jurisprudence constante*: "a long line of cases following the same reasoning" that carries "considerable persuasive authority." *Doerr v. Mobil Oil Corp.*, 00-0947, pp. 13–14 (La. 12/19/00), 774 So. 2d 119, 128. *Jurisprudence constante* is important because "certainty and constancy of the law are indispensable to orderly social intercourse, a sound economic climate and a stable government," and that "certainty is a supreme value" in the civil-law system. *Id.* at 128 (quoting *Johnson v. St. Paul Mercury Ins. Co.*, 236 So.2d 216 (1970)).

Measured against this backdrop, Plaintiff's request to discard the subsequent-purchaser rule is not a request for a modest "clarification"; it is an invitation to repudiate a classic example of *jurisprudence constante* by reversing a rule which this Court described as recognized "over more than a hundred years of jurisprudence." *Eagle Pipe*, 79 So.3d at 256. In *Eagle Pipe*, the Court expressly grounded its analysis in the civilian framework set forth in this Court's decision in *Doerr* and then surveyed the "property law precepts" and the rule's "reasoning and development" across a century of cases, including *Clark*. *Id.* at 256, 263.

This case presents the opposite scenario from the issue presented in *Doerr*, where this Court found *jurisprudence constante* supported overruling the challenged decision because it was a recent outlier against a broader line of authority. 774 So.2d at 129–30. By contrast, Plaintiff asks this Court to do precisely what the civilian method warns against: unsettle a longstanding, uniform rule—one interwoven with Louisiana's fundamental civilian distinctions between real and personal rights and relied upon in property transactions—without a legislative directive or without the kind of "outlier" showing that *Doerr* identified as justifying reversal. Under Louisiana's civilian commitment to stability through *jurisprudence constante*, particularly in property law, this Court should decline that invitation and leave any sweeping change to property transactions to the Legislature. *See id.* at 276 (holding that absent legislative action, "we cannot supply a right of action through jurisprudence which the law does not").

B. Certainty and predictability are paramount in property transactions.

Certainty and predictability are not abstract virtues in Louisiana's civilian system; they are the precondition for "orderly social intercourse" and "a sound economic climate." *Doerr*, 774 So. 2d at 128. This premise has particular force in property and business contexts, where parties must be able to rely on settled, predictable legal rules to price risk and allocate it by contractual negotiations.

This Court's decision in *Willis-Knighton Med. Ctr. v. Caddo Shreveport Sales & Use Tax Comm'n*, where it examined the "societal expectations test,"[2] illustrates the point: once this Court has ruled, it should be "extremely reluctant" to change course because "both the legislature and society in general should be able to rely on the finality of our pronouncements," and "[s]tability and predictability in the law demand such a result." 2004-0473 (La. 4/1/05), 903 So. 2d 1071,1088. In the same opinion, the Court cautioned against open-ended judicial approaches like the societal expectations test[3] because they "interject[] too much … discretion in an area of the law that demands certainty and predictability," and endorsed "clear, straightforward" rules precisely because they "produce[] certainty and predictability… desirable in an area such as property law." *Id.* at 1089-1090.

Those reliance interests are not one-sided. Businesses and lenders structure deals—including such fundamental features as due-diligence scope, indemnities, escrow/holdback, insurance, remediation obligations, and price—based on settled rules governing what rights transfer and what rights do not. Purchasers no less than sellers depend on settled rules to know what must be obtained expressly in the act of sale (assignment/subrogation) versus what comes with the thing. Everyone benefits from this clarity because it reduces the potential for disputes over who owns a claim: a seller who truly suffered pre-sale damage can sue (or can assign), while a buyer can negotiate for an assignment if that claim is part of the deal. In the same way, Louisiana's recordation rules are designed so that third parties can rely on the legal effect of properly recorded instruments rather than on amorphous, after-the-fact knowledge disputes, *see Wede v. Niche Mktg. USA, LLC*, 2010-0243 (La. 9/7/10), 52 So. 3d 60 (registry system "not based upon knowledge" and instruments must be in the legally prescribed place to affect third persons).

[2] The "societal expectation test" was a test rejected by the Louisiana Supreme Court as a means of determining component parts of immovables. *Willis-Knighton Medical Center*, 903 So. 2d at 1074.

In sum, the subsequent-purchaser rule supplies transactional certainty that keeps markets (and the disputes that follow property sales) stable and priceable.

C. The mere fact that pre-acquisition damages may be "nonapparent" does not preclude application of the rule.

Plaintiff creates a false premise in an attempt to carve out an exception to the subsequent-purchaser doctrine by re-labeling the alleged injury as "nonapparent." But the principles underlying the subsequent-purchaser rule do not turn on whether a condition undergirding a potential claim for damage to property was visible to (or subjectively known by) the purchaser at the time of sale. *Eagle Pipe* squarely examined this issue and rejected that premise outright: "[a]lthough the plaintiff asserts the subsequent purchaser rule applies only when there is apparent damage to property, we think the rationale also extends to the situation where the damage to property is not apparent." *See Eagle Pipe*, 79 So. 3d at 252, 276.

The Civil Code's distinction between apparent and nonapparent defects operates in the law of sale—*i.e.*, by providing for warranties and remedies *between buyer and seller*. See *Eagle Pipe*, 79 So. 3d at 275–76; *see also* La. Civ. Code art. 2521 (seller owes no warranty for defects "known to the buyer" or that "should have been discovered by a reasonably prudent buyer"). Consistent with that framework, *Eagle Pipe* explains that when damage is not apparent and the property has been sold, Louisiana law provides the purchaser contractual remedies against the seller—rescission, reduction of price, and related relief—rather than a free-standing tort claim against all parties (including third parties who are strangers to the sale transaction) that "runs with the land." 79 So. 3d at 252, 275–76; *see also* La. Civ. Code arts. 2531, 2534.

That is why the "apparent/nonapparent" distinction is irrelevant. Plaintiff's approach would recast a seller's personal right of action into an automatically transferred entitlement that expands based on later discovery—creating precisely the uncertainty *Eagle Pipe* rejected in favor of supporting stability in property transactions and deferring to the Legislature's choices. *Id.* at 276–77.

This conclusion is fair to both sellers and purchasers of property, particularly in the oil-and-gas context. In Louisiana, the existence of oil-and-gas uses (leases, servitudes, recorded notices, unitization agreements, and regulatory permits and filings) is commonly traceable through public sources which are available to put a prudent purchaser on notice of such uses and to arm the purchaser to negotiate protections (price, warranties, indemnities, escrow, or an assignment of claims) as the purchaser deems appropriate in light of that notice.

First, parish conveyance and mortgage records routinely disclose mineral and surface burdens and uses. Louisiana's public-records regime requires recordation of instruments transferring immovables or establishing real rights in or over immovables to affected third persons. La. Civ. Code art. 3338. The Legislature has also provided streamlined record-notice mechanisms for leases, expressly applicable to mineral leases. La. Rev. Stat. § 9:2742(E). And Mineral Code provisions likewise contemplate recordation to bind third parties as to certain mineral-development agreements. La. Rev. Stat. § 31:216. A purchaser who runs title and reviews recorded instruments can typically identify whether the tract has been subject to mineral leasing, surface leasing, pipeline servitudes, and related indicia of oil-and-gas activity.

Second, oil-and-gas permitting and well information are accessible through the State's public-facing systems and public-records rules. Louisiana maintains the SONRIS system as a portal providing access to records, maps, and well information. *See* SONRIS Integrated Applications (describing "millions of documents … readily available for view and print"). In addition, Office of Conservation and Energy regulations expressly provide that recorded information concerning permitting actions (including applications and attachments), unless confidential by statute, "shall be made available to the public for inspection and copying" under the Public Records Act. LA. ADMIN. CODE tit. 43, pt. XIX, § 4709(C) (2025); *see also* La. Rev. Stat. § 44:1 *et seq.* A buyer exercising ordinary diligence will consult such sources as necessary for the transaction at issue.

Third, transactional due diligence and negotiation provide a further avenue for investigation. *Eagle Pipe* provides that the remedies to the subsequent purchaser flow from the buyer/seller relationship—rescission/redhibition, price reduction, repair obligations, and (where the parties choose) assignment of pre-sale claims. 79 So. 3d at 252, 275–76; La. Civ. Code arts. 2521, 2531. Purchasers routinely supplement those default remedies with contractual tools—representations and warranties, indemnities, escrows, and targeted assignments. Any exception for "nonapparent" damage would invert that structure by rewarding the buyer who does *less* diligence (or negotiates no assignment) with an expanded remedy against third parties, while simultaneously diminishing the role of the sale contract that Louisiana law treats as the primary vehicle for allocating risk. *Eagle Pipe*, 79 So. 3d at 275–77.

Finally, the ability to administer the rule and policy concerns are exactly those that this Court already addressed in *Eagle Pipe*. If the existence of a right turns on whether a later purchaser

characterizes the damage as "nonapparent," then the right becomes contingent on subjective discovery and variable diligence, which could produce uncertainty in titles, pricing, and prescription, and effectively convert a personal right into something that functions like a real right. *See Eagle Pipe*, 79 So. 3d at 276–77. Louisiana law instead provides a coherent remedy: the property-damage claim belongs to the owner at the time of injury unless assigned; the buyer's protection for hidden conditions lies in the sale relationship and in the buyer's ability (through public records and diligence) to negotiate price and risk in the contract. *Id.* at 252, 275–77.

D. The principles supporting the subsequent-purchaser rule are applied throughout the United States.

The subsequent-purchaser rule is not a Louisiana peculiarity. The United States Supreme Court articulated the same baseline principle more than a century ago: "Neither a deed of land … carries with it a right of action for prior trespasses," and such rights "only pass with a conveyance … where the language is clear and explicit to that effect." *United States v. Loughrey*, 172 U.S. 206, 212 (1898).

Modern state courts apply the same rule with remarkable consistency. For example, in Texas, the "right to sue for an injury to real property is a personal right belonging to the person owning the property at the time of the injury," *Ceramic Tile Int'l, Inc. v. Balusek*, 137 S.W.3d 722, 724 (Tex. App.—San Antonio 2004, no pet.), and "without express provision, the right does not pass to a subsequent purchaser." *Exxon Corp. v. Pluff*, 94 S.W.3d 22, 27 (Tex. App.—Tyler 2002, pet. denied); *see also Cole v. Anadarko Petroleum Corp.*, 331 S.W.3d 30, 36 (Tex. App.—Eastland 2010, pet. denied). Mississippi applies the same concept under its "prior trespass" rule: a deed does not implicitly convey claims for pre-conveyance injury absent an assignment. *Robohm v. Wheeler Roofing, Inc.*, 135 So. 3d 172, 176 (Miss. Ct. App. 2013). Alabama is the same: a pre-acquisition inverse-condemnation claim "does not pass to subsequent grantees." *Ex parte Simpson*, 36 So. 3d 15, 23 (Ala. 2009). Colorado likewise holds that tort claims for injury to land are "personal to the owner … unless … specifically assigned." *Betterview Invs., LLC v. Pub. Serv. Co. of Colo.*, 198 P.3d 1258, 1262 (Colo. App. 2008).[4]

[4] Many other jurisdictions follow the same approach. *See, e.g.*, *Ginsberg v. Lennar Fla. Holdings, Inc.*, 645 So. 2d 490, 494 (Fla. Dist. Ct. App. 3d Dist. 1994) (Florida); *Dougherty Cnty. v. Pylant*, 104 Ga. App. 468, 471–72, 122 S.E.2d 117, 119–20 (1961) (Georgia); *Keru Invs., Inc. v. Cube Co.*, 63 Cal. App. 4th 1412, 1423, 74 Cal. Rptr. 2d 744, 751 (1998) (California); *Kloiber v. Jellen*, 207 Conn. App. 616, 621–26, 263 A.3d 952, 956–59 (2021) (Connecticut); *Turner v. Whitehouse*, 68 Me. 221 (1878) (Maine) (conveyance does not transfer claim for prior injuries); *Ortwine v. Mayor & City Council of Balt.*, 16 Md. 387 (1860) (Maryland) (subsequent purchaser cannot sue for permanent injury; claim accrued to former owner and does not pass by conveyance); *Daniels v. Roanoke R.R. & Lumber Co.*, 158 N.C. 418 (1912) (North Carolina) (damages are personal to the owner at the time of injury and do not pass by deed); *Argier v. Nev. Power Co.*, 114 Nev. 137 (1998) (Nevada) (taking/injury damages belong to the

Consistent with that rule, many jurisdictions expressly recognize an avenue by which a later purchaser may sue—only when the claim is expressly assigned (or specifically conveyed)—reinforcing that the owner at the time of injury is the party with the right to recover. *See Larabee v. Potvin Lumber Co.*, 390 Mass. 636 (1983); *Brooks Invs. Co. v. City of Bloomington*, 305 Minn. 305 (1975); *Goodwin v. S.J. Groves & Sons Co.*, 525 S.W.2d 577 (Mo. 1975); *Kimco Addition, Inc. v. Lower Platte S. Nat. Res. Dist.*, 232 Neb. 289 (1989); *Wallace v. Paulus Bros. Packing Co.*, 191 Or. 564 (1951); *City of Lynchburg v. Mitchell*, 114 Va. 229 (1912); *Oreze Healthcare LLC v. E. Shore Cmty. Servs. Bd.*, 302 Va. 225 (2023). And courts applying the rule in varied substantive settings (trespass and tort claims, inverse condemnation, and standing) likewise refuse to let a simple transfer of title retroactively create a right to sue for past harm absent an express assignment. *See McNeill v. Rice Eng'g & Operating, Inc.*, 148 N.M. 16 (2010); *Wild v. Hayes*, 68 A.D.3d 1412 (N.Y. App. Div. 2009); *Hatfield v. Wray*, 140 Ohio App. 3d 623 (2000); *St. Louis & S.F.R. Co. v. Stephenson*, 43 Okla. 676 (1914); *Shonnard v. S.C. Pub. Serv. Auth.*, 217 S.C. 458 (1950); *Dep't of Forests, Parks & Recreation v. Town of Ludlow Zoning Bd.*, 177 Vt. 623 (2004); *Maslonka v. Pub. Util. Dist. No. 1 of Pend Oreille Cnty.*, 1 Wash. 3d 815 (2023).

In short, *Eagle Pipe* aligns Louisiana with the dominant American rule: accrued claims for past property damage do not "run with the land" without an express transfer.

II. Overruling *Eagle Pipe* could create windfall recoveries.

Overruling *Eagle Pipe* could transform routine property conveyances into automatic claim transfers, creating a potential litigation windfall untethered from the parties' bargain in property transfers. That is precisely what the subsequent-purchaser rule prevents. Under the rule, buyers and sellers can allocate risk and value transparently: if the buyer wants the seller's accrued claims, the parties can say so (by assignment or subrogation) and price the transaction accordingly. *Eagle Pipe*, 79 So. 3d 246. If the buyer does not obtain that transfer, the buyer is not left without remedies; it may pursue contractual and redhibitory remedies against its seller and other "legal remedies" tied to the sale. *Id.* at 283-284; *see also* La. Civ. Code arts. 2520–2548.

Therefore, the subsequent-purchaser rule simply prevents private damages awards untethered to the purchaser's own economic loss, which is exactly the sort of source of profit Louisiana law has rejected. In *Eagle Pipe*, this Court explained that, instead of suing third parties

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owner at the time of injury and pass only by express deed provision or assignment); *Newman v. Bailey*, 124 W. Va. 705 (1942) (West Virginia) (completed injury vests a personal right in the then-owner and does not pass absent special mention or separate assignment); *Peterson v. Lake Superior Dist. Power Co.*, 255 Wis. 584 (1949) (Wisconsin) (prior-injury claims are assignable but do not pass by conveyance without a deed provision).

for predecessors' losses, "the subsequent purchaser has the right to seek rescission of the sale, reduction of the purchase price, or other legal remedies." 79 So. 3d at 283-284. Critically, *Eagle Pipe* addressed the precise point Plaintiff raises here and rejected the invitation for judicial revision:

> the rules of discovery and prescription are "deliberate legislative choices" that "*maintain certainty in transactions involving immovable property*." The Legislature "*could have created a right of action*" for current owners "no matter when the damage occurred," but "such legislation has not been enacted." Instead, "*the legislature has decided the only addition to current legal remedies is a mechanism for remediating the property*." *Eagle Pipe*, 79 So. 3d at 276 (emphasis added).

Importantly, the subsequent-purchaser rule does not leave later owners "without recourse." Nor does it "protect polluters"; it prevents double recovery. Whatever the private remedy available (if any), the public remains protected by Louisiana's regulatory laws. As this Court has recognized, "regardless of who has standing to pursue claims for money damages, the current owner of property always has the right to seek a regulatory cleanup of a contaminated site." *Marin v. Exxon Mobil Corp.*, 2009-2368 (La. 10/19/10), 48 So. 3d 234, 256 n.18. Indeed, the Office of Conservation and Energy can investigate, hold hearings, issue compliance orders, and pursue injunctive relief to compel cleanup; and private citizens may invoke certain procedural mechanisms contemplated by La. Rev. Stat. § 30:6.

III. Reversing *Eagle Pipe* would undermine Louisiana's progress toward a stable civil-justice climate.

Louisiana's civil-justice climate is not judged solely within its borders. A state's litigation environment materially affects decisions about where companies locate, invest, and expand. "When asked about the fairness of state liability systems, in-house general counsel, senior litigators or attorneys, and senior executives at major companies have placed Louisiana at the bottom of the list." Cary Silverman, *Louisiana's Liability Environment: Progress and Opportunities for Legal Reform*, U.S. Chamber of Com. Inst. for Legal Reform (April 2025), at 5, https://instituteforlegalreform.com/wp-content/uploads/2025/04/Louisiana-Briefly-FINAL.pdf. This negative perception affects the cost of doing business, the willingness to insure risk, and the predictability of transactions. Businesses deciding where to invest care about predictable rules that match national baselines.

In recent years, however, this Court has taken notable steps, highlighted by reform advocates and commentators, to improve predictability in Louisiana's liability system. For

example, in *Pete v. Boland Marine & Mfg. Co.*, the Court held that appellate courts must consider prior general-damage awards in similar cases to add objectivity to excessiveness review, and it reduced an outsized general-damages award using that comparative framework. 2023-00170 (La. 10/20/23), 379 So.3d 636, *reh'g denied*, 2023-00170 (La. 12/7/23), 374 So.3d 135. "Louisiana has made progress in addressing concerns about excessive liability and lawsuit abuse," including through this Court's efforts to modernize review standards in ways that provide "greater predictability" and "much-needed objectivity." *Louisiana's Liability Environment* at 7, 15-16. Louisiana's legal system unquestionably benefits when rules are administrable, predictable, and tethered to objective anchors rather than case-by-case improvisation.

Overruling *Eagle Pipe* would cut directly against that positive momentum. It would destabilize a long-settled rule of property law. And it would do so in tension with the Court's own repeated recognition that certainty and constancy are indispensable to "a sound economic climate" and that "certainty is a supreme value" in Louisiana's civil-law tradition. Put plainly: Louisiana cannot credibly pursue a reputation for predictable, rules-based adjudication while simultaneously discarding a century-settled property rule in a way that predictably encourages more litigation.

Against that backdrop, Plaintiff's invitation to overrule *Eagle Pipe* would move Louisiana in the wrong direction—toward instability and expanded litigation incentives. This Court should reject that request.

CONCLUSION

Eagle Pipe emphasized that the subsequent-purchaser rule rests on "fundamentals of Louisiana property law" and reflects over a century of jurisprudence limiting who owns the right to sue for pre-acquisition damage absent assignment or subrogation. Overruling such a well-settled rule of law would do more than adjust standing rule at the margins; it would inject uncertainty into immovable transactions by converting what has long been treated as a personal right of the owner at the time of damage into a claim that effectively travels with the thing. Such a shift would predictably invite more litigation (including suits by purchasers who did not bear the loss when it occurred), increase leverage for speculative acquisitions, and force parties to price and litigate questions that Louisiana law has long resolved through stable, transactional rules. That outcome would not only be unfair to countless parties who relied on the settled subsequent-purchaser rule in negotiating now-completed transactions; it would harm the environment for business and

investment in Louisiana going forward. This Court should therefore affirm the Third Circuit's decision.

Respectfully submitted, this 20th day of January, 2026.

RESPECTFULLY SUBMITTED

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CERTIFICATE OF SERVICE

I certify that a copy of the above and foregoing brief has been served upon all counsel of record by electronic mail, this 20th day of January, 2026.

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