FOR IMMEDIATE NEWS RELEASE

NEWS RELEASE # 003

FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **19th day of January, 2006**, are as follows:

PER CURIAM:

2003-C -0492
C/W
2003-C -0502

JOSEPH BUJOL, III, ET AL. v. ENTERGY SERVICES, INC., ET AL. C/W
DON A. PERKINS, ET AL v. ENTERGY SERVICES, INC., ET AL.
(Parish of Iberville)

ON REHEARING

Judge Philip C. Ciaccio, retired, sitting pro tempore, for Justice John L. Weimer, recused.

Thus, our original decision reversing the jury verdict in favor of the plaintiffs is reaffirmed.

JOHNSON, J., dissents and assigns reasons.
KNOLL, J., dissents and assigns reasons.

(01/19/2006)

SUPREME COURT OF LOUISIANA

NO. 03-C-0492 c/w 03-C-0502

JOSEPH BUJOL, III, ET AL.

versus

ENTERGY SERVICES, INC., ET AL.

consolidated with

DON A. PERKINS, ET AL.

versus

ENTERGY SERVICES, INC., ET AL.

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, FIRST CIRCUIT, PARISH OF IBERVILLE

ON REHEARING

PER CURIAM*

We granted plaintiffs' application for rehearing in this case because at least some of the justices in the original majority were concerned about the propriety of the majority's decision in the original opinion to review the jury verdict in favor of the plaintiffs under a *de novo* standard, as opposed to a manifest error standard of review.[1] The majority's decision to apply the *de novo* standard was based on its conclusion that "the jury could not have applied the correct law in determining whether ALSA assumed a duty to the employees at ALAC's plant because it was given no instructions whatsoever on the law of assumption of duty or any of the elements required under [Restatement (Second) of Torts] § 324A. *Bujol v. Entergy Services, Inc.,* 2003-0492, p. 15 (La. 5/25/04), 2004 WL 1157413, 10. In their application for rehearing, the plaintiffs challenged the majority's decision to apply the *de novo* standard of review and give no deference to the jury verdict, arguing that

---

* Judge Philip C. Ciaccio, retired, sitting pro tempore, for Justice John L. Weimer, recused.

[1] Absent a finding that the trier of fact applied the incorrect law because of erroneous and prejudicial jury instructions, the court of appeal should not upset a jury verdict unless it finds that it is manifestly erroneous or clearly wrong. *See Gonzales v. Xerox Corp.*, 320 So.2d 163 (La.1975). When an appellate court finds prejudicial error that has affected the factfinding process at trial, the jury verdict is not due any deference, *de novo* review applies and the appellate court is at liberty to make an independent decision based on the record evidence.

defendants waived their right to complain about the jury instruction when they failed to object to the overall instruction at trial. As plaintiffs correctly point out, La. Code of Civil Proc. art. 1793(C) provides that "[a] party may not assign as error the giving or the failure to give an instruction unless he objects thereto either before the jury retires to consider its verdict, or immediately after the jury retires, stating specifically the matter to which he objects and the grounds of his objection."

Following a careful review of our original decision in this case, in light of the plaintiffs' arguments made in their application for rehearing, and the defendant's contrary contentions, we reinstate our original decision. Although the court did apply a *de novo* standard of review, we also specifically noted that "even if we were to review this case under the manifest error standard, our result would be the same." *Id.* At this juncture, after grant of rehearing and presentation of oral arguments anew, we find no need to decide whether *de novo* is the appropriate standard of review (that is, giving no deference to the jury's finding), for we resolve this case upon finding correct our alternate conclusion on original hearing that, under the manifest error standard, the jury's verdict cannot stand and must be reversed.

La. Rev. Stat. 23:13 imposes on employers a duty to "furnish employment which shall be reasonably safe for the employees therein." That duty is not automatically imposed on parent companies of employers. Generally, "[a] parent corporation may be liable for unsafe conditions at a subsidiary only if it assumes a duty to act by affirmatively undertaking to provide a safe working environment." *Muniz v. National Can Corp.*, 737 F.2d 145, 148 (1st Cir.1984). Communication or concern over safety matters is not enough. *Id.* In this case, the lower courts applied the provisions of Restatement [Second] of Torts § 324A[2] to find that ALSA assumed

---

[2] Restatement [Second] of Torts § 324A provides as follows:

> One who undertakes, gratuitously or for consideration, to render services to another which he should recognize as necessary for the protection of a third person or his things, is subject to liability to the third person for physical harm resulting from his failure to exercise reasonable care to protect [perform] his undertaking, if
>
> (a) his failure to exercise reasonable care increases the risk of harm, or
>
> (b) he has undertaken to perform a duty owed by the other to the third person, or

a duty to act by undertaking to provide a safe working environment at the plant of its subsidiary, ALAC.

As we stated in our original decision, under the plain language of the introductory portion of § 324A, an assumption of duty arises only when the defendant (1) undertakes to render services, (2) to another, (3) which the defendant should recognize as necessary for the protection of a third person. Moreover, even if a plaintiff proves the assumption of a duty under that standard and that the defendant failed to exercise reasonable care to perform that duty, he may only recover if he further proves that either (a) the defendant's failure to exercise reasonable care increased the risk of such harm; or (b) the defendant has undertaken to perform a duty owed by the employer to the injured employee; or (C) harm is suffered because of reliance of the employer or the injured employee upon the undertaking. *Id.* at 10, citing *Tillman v. Travelers Indemnity Co.*, 506 F.2d 917 (5th Cir.1975).

Our decision on this rehearing, that we correctly found in the original opinion that the jury's verdict was manifestly erroneous, is based primarily on the fact that the record in this case is devoid of evidence from which the jury could reasonably have concluded that ASLA "affirmatively undertook" to provide a safe working environment at ALAC. At trial, the only evidence presented by the plaintiffs to support their theory that ALSA affirmatively assumed a duty of safety for ALAC's employees was the introduction of ALSA's Technical Instruction 84 ("TI 84"), a document that addressed barrier walls, among other things and that was disseminated to all of ALSA's subsidiaries in 1984. Plaintiffs point to the following excerpt from TI 84, found in a section of the document titled "Protective walls and screens," as evidence that ASLA acted to require barrier walls around the valve that exploded causing their injuries in this case.

> For new installations which are up to standard, the only requirement is that operating personnel should be protected during manual opening or closing of gate valves when:
> P D2 > 3 000
> where:

> ©) the harm is suffered because of reliance of the other or the third person upon the undertaking.

> P = effective pressure in bars
> D = nominal diameter in cm.
> In this case, *provision must be made for a protective wall between the gate valve and the handwheel*.

Plaintiffs also point to language in the English translation of TI 84, which was originally written in French, which stated that "TI 84 sets the minimum requirements to be met throughout the AL Group as regards oxygen pipeline networks," as well as another statement the rules set forth therein "must be followed" for all ALSA pipelines. Through its preparation and dissemination of TI 84 to its subsidiaries in 1984, plaintiffs argue that ALSA met all the requirements for liability under § 324A because it (1) undertook to render services, (2) to another, (3) which it should have recognized as necessary for the protection of a third person.

On the other hand, ALSA presented the testimony of numerous employee witnesses with direct knowledge about the preparation and dissemination of TI 84 in 1984, including the person who drafted the document, each of whom testified that the provisions of TI 84 were never intended to set any type of minimum standards, as the English translation of the document indicates, but were merely safety recommendations. According to the testimony of ALSA's witnesses, which is summarized in some detail in our original opinion, each ALSA subsidiary could chose to follow TI 84 or not, depending on many factors relevant to each plant. As we stated on original hearing:

> The witnesses explained why it would be impossible to impose the same safety factors upon each of its more than 100 subsidiaries in over 60 countries, based on the different local rules and practices, types of equipment used, varying statutory requirements, and numerous other factors. Likewise, it would be a ludicrous to hold that by issuing TI 84, ALSA undertook the duty of safety owed by each of its subsidiaries at hundreds of plants in over 60 countries.

Id. at 12.

Based on the testimony summarized above, ALSA asserts that it did not meet any of the requirements for liability under § 324A because, despite its preparation and dissemination of TI 84 to its European subsidiaries in 1984, it never (1) undertook to render services, (2) to another, (3) which it should have recognized as necessary for the protection of a third person. We agree. Our review of the record reveals no evidence from which the jury could reasonably have found that ALSA "assume[d] a

duty to act by affirmatively undertaking to provide a safe working environment." *Muniz*, 737 F. 2d at 148. The most that could be said is that in 1984, through its preparation and dissemination of TI 84 in 1984, ALSA communicated concern over safety matters at its subsidiaries to which the document was disseminated. That being the case, we find that the plaintiffs failed to prove, under the legal principles applicable to this case, that ASLA "assumed a duty to act by affirmatively undertaking to provide a safe working environment" at ALAC's plant when it disseminated the document to its 1984 subsidiaries.

Further, the record evidence is uncontradicted that ALAC was never provided with TI 84, as it was purchased by ALSA in 1986, two years after 1984 when TI 84 was disseminated to ASLA's subsidiaries. The reason TI 84 was never disseminated to ALAC was clear in the record in this case. Defense witnesses testified that when ALSA purchased Big Three, an American company which owned ALAC, they chose to rely on the expertise of Big Three and its subsidiary, ALAC, in safety matters and did not intercede in any way into Big Three's or ALAC's duty to provide a safe workplace for its employees. Big Three had an excellent safety record, was complying with Compressed Gas Association ("CGA") standards, and was a leader in the United States in this industry. Given the fact that liability under the first paragraph of § 324A must be premised on some type of "affirmative undertaking," ALSA's failure to disseminate TI 84 to ALAC cannot be sufficient grounds for proving assumption of the duty of safety or for imposing liability under that paragraph.

In addition to the above reasons supporting our finding that ALSA never "assumed a duty to act by affirmatively undertaking to provide a safe working environment" at ALAC, we note that the language of TI 84 does not require the use of barrier walls around the valves involved in this case, even if the issuance of TI 84 could be considered an "affirmative undertaking" and even if the document had been disseminated to ALAC. We explained the record evidence on this issue as follows in our original opinion:

> TI 84 explains that, while ASLA "called for the use of a sophisticated system of walls forming protective walls and screens" following a series

> of accidents in the 1960s and 70s, "today, less stringent solutions are possible" because of experience acquired since that time, installation procedures ensuring high quality clean installations and analysis of the accidents since 1970 when the protective wall system was introduced. This statement indicates solutions other than protective walls and screens were then considered safe and acceptable. The next sentence of TI 84 provides that "for new installations which are up to standard, the only requirement is that operating personnel should be protected during manual opening or closing of gate valves ..." under certain circumstances by a protective wall between the gate valve and the handwheel. As seen by the evidence presented, the valve where the flash fire occurred was an automatic valve, which was ordinarily operated through the use of remote control and which was not normally worked on while under pressure. While there was no barrier wall between the manual valve that Bujol and Perkins first attempted to close and the handwheel that they turned two times in an attempt to close it, the manual valve is not the valve that exploded and caused their injuries. TI 84 did not even suggest that a wall be placed around automatic valves. The witnesses testified about the drawbacks that would entail if a wall were placed around an automatic valve, i.e., the automatic valve could not be viewed from the control room where it was operated remotely. Further, because by definition an automatic valve is not opened or closed manually, a wall would have prevented the workers from determining what was wrong with the automatic valve and they would have had to go around the wall in order to do so had one been there. TI 84 did provide however that "[t]he question of regular maintenance checks carried out with the pipeline still pressurized must be examined and strict procedural guidelines laid down." Accordingly, it was ALAC, not ALSA, that had safety procedures in place in order for work to be performed on an automatic valve under pressure. Finally, the provisions of TI84 recognized that local rules in force, in this case the CGA which did not require barrier walls, might conflict with the provisions of TI84 (requiring barrier walls) and that in such case, "the Direction Technique may be consulted to decide on the attitude to adopt." (Emphasis added.) This reaffirms the witnesses' testimony that the provisions of TI84 regarding barrier walls were not mandates, but merely recommendations that may or not be applicable depending on the circumstances of each plant, and that ALSA was available to offer advice if requested by a subsidiary.

Bujol, 2003-0492, 2004 WL 1157413, 13.

As explained in our original decision, the plaintiffs' evidence was also insufficient to establish liability under § 324(A)(b), which, as we stated in our original decision, includes an even more stringent requirement than the "positive undertaking" requirement of the introductory paragraph of § 324(A) *Id.* at 17. In fact, "a parent, or other entity, will only be liable for a voluntary assumption of duty under § 324(A)(b) where that corporation's undertaking was intended to supplant, not just supplement, the subsidiary's duty." *Id.* at 18. In short, liability under this section cannot be based on a failure to assume a duty, but is instead created when an entity assumes a duty to act by affirmatively undertaking to provide a safe working

environment to the extent that by its actions it has totally supplanted and taken over the subsidiary's duty and then breaches the duty it has affirmatively undertaken. There is absolutely no reasonable factual basis in the record to support such a finding.

In conclusion, the duty to provide workplace safety in this case rests by Louisiana statute with ALAC, the employer. The defendant in this case, ALSA, ALAC's distant parent, can assume ALAC's statutory duty for workplace safety only by "affirmatively undertaking to provide a safe working environment." Plaintiffs' introduction of TI 84 to prove that ALSA "affirmatively undertook" ALAC's duty of safety fails for three reasons. First, the preparation and dissemination of TI 84 to ALAC's subsidiaries in 1984 was more of a communication or concern about workplace safety than the "affirmative undertaking" required to assume a duty of safety. Second, TI 84 was, for good reasons explained above, never even disseminated to ALAC or its direct parent, Big Three, when Big Three was acquired by ALSA years after TI 84 was disseminated in Europe. Third, the language of TI 84 indicates that it was never intended to require barrier walls around automatic valves, like the one that caused the injuries here. Thus, our original decision reversing the jury verdict in favor of the plaintiffs is reaffirmed.

(01/19/2006)

SUPREME COURT OF LOUISIANA

No. 03-C-0492 c/w 03-C-0502

JOSEPH BUJOL, III, ET AL.

Versus

ENTERGY SERVICES, INC., ET AL.

C/W

DON A. PERKINS, ET AL.

Versus

ENTERGY SERVICES, INC., ET AL.

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, FIRST CIRCUIT, PARISH OF IBERVILLE

JOHNSON, J. dissents and assigns reasons

The majority acknowledges that the court in its original decision applied the incorrect *de novo* standard of review, but suggests that even if the court had applied the correct manifest error standard of review, the result would be the same.

In the case *sub judice*, the question before the jury was whether the parent corporation had assumed responsibility for safe working conditions at the subsidiary. The jury was presented with Air Liquid's own document, the TI 84, which clearly provided that it "sets the minimum requirements to be met throughout the AL Group . . .," which included the facilities throughout the United States and included the facility in Plaquemine where this event occurred. The jury heard conflicting testimony

as to ALSA's responsibility regarding safety. After hearing testimony and reviewing the evidence presented, the jury found that the parent corporation assumed liability for the safety of all employees. Jurisprudence provides that the appellate courts should defer to the findings of the jury as the jury is in a better position to evaluate the credibility of witnesses and make a factual determination than is a reviewing court. *Parish National Bank v. Ott*, 02-1562 (La.2/25/03), 841 So.2d 749. After reviewing the record in its entirety, there is nothing in the record to suggest that 1) a reasonable factual basis does not exist for the jury's verdict or 2) that the jury's findings are clearly wrong (manifest erroneous). After being presented with two permissible views of the evidence of whether the procedures set forth in the TI 84 were mandates, guidelines, or recommendations, the jury ruled in favor of Air Liquid's liability. Applying the manifest error standard, this ruling should not be disturbed.

For these reasons, I respectfully dissent.

(01/19/2006)

SUPREME COURT OF LOUISIANA

NO. 03-C-0492 c/w 03-C-0502

JOSEPH BUJOL, III, ET AL.

Versus

ENTERGY SERVICES, INC., ET AL.

c/w

DONA A PERKINS, ET AL.

Versus

ENTERGY SERVICES, INC., ET AL.

Knoll, J.,dissenting

This case presented a fact-driven issue resolved by employing a manifest error analysis. In my view, the majority does great violence to the well accepted tenet of this Court that *where a rational basis exists* for the factfinder's determination, *particularly in light of conflicting testimony*, manifest error review dictates affirmation of the factfinder's rational assessment of the evidence. Instead, in an effort to shield a parent corporation from liability for having addressed a safety issue, the majority ignores the manifest error doctrine and fails to consider that a *rational basis* existed for the jury verdict. As a result, the majority rewards a parent corporation for opting not to share critical, lifesaving safety information with one of its subsidiary corporations which should have met the requirements established therein, and signals to other similarly structured corporations that this manner of operation is permissible in Louisiana.

It is well established that the issue of whether a duty is owed is a question of law. Faucheaux v. Terrebonne Consolidated Government, 615 So. 2d 289 (La. 1993).

However, whether Air Liquide assumed a duty to the injured employees at the Plaquemine plant is a factual question determined by the factfinder and thus subject to the manifest error rule. Schulker v. Roberson, 91-1228 (La. App. 3 Cir. 6/5/96), 676 So. 2d 684, 688.

In an action to recover damages for injuries allegedly caused by another's negligence, the plaintiff has the burden of proving negligence on the part of the defendant by a *preponderance of the evidence*. Proof is sufficient to constitute a preponderance when the entirety of the evidence, both direct and circumstantial, shows that the fact sought to be proved is more probable than not. Benjamin ex rel. Benjamin v. Housing Authority of New Orleans, 2004-1058 (La. 12/1/04), 893 So.2d 1, 5. Further, in civil cases, the appropriate standard for appellate review of factual determinations is the manifest error–clearly wrong standard, which precludes the setting aside of a district court's finding of fact unless that finding is clearly wrong in light of the record reviewed in its entirety. Cenac v. Public Access Water Rights Ass'n, 2002-2660 (La.6/27/03),851 So. 2d 1006, 1023. Thus, a reviewing court may not merely decide if it would have found the facts of the case differently. Id. The reviewing court should affirm the trial court where the trial court judgment is not clearly wrong or manifestly erroneous. Id. at 9-10, 851 So. 2d at 1023. Moreover, a majority of this Court has held the manifest error standard of review not only applies to all factual findings, but also includes sufficiency of the evidence challenges. Hall v. Folger Coffee Co., 2003-1734 (La. 4/14/04), 874 So.2d 90, 99.

It is eminently clear in the present case that during this two-week jury trial the parties presented conflicting evidence on the pivotal issue in this case, i.e., whether Air Liquide assumed a duty to provide its subsidiary, the Plaquemine plant, with safety requirements it had acquired from its experiences in Europe, and the evidence

was more than sufficient to establish the existence of a duty and Air Liquide's assumption of that duty. In such circumstances, one of the basic tenets of the manifest error standard of review is that "reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review." Parish Nat. Bank v. Ott, 2002-1562 (La.2/25/03), 841 So. 2d 749, 753. This principle is further explained in Ott as follows:

> Where there is conflicting testimony, reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review, even though the appellate court is convinced that had it been the trier of fact, it would have weighed the evidence differently. Lirette v. State Farm Ins. Co., 563 So. 2d 850 (La. 1990). The trier of fact is in a better position to evaluate the credibility of witnesses and make factual determinations than is a reviewing court. Stobart v. State Through DOTD, 617 So. 2d 880 (La. 1993).
>
> . . .
>
> 'This court has announced a two-part test for the reversal of the factfinder's determinations: (1) the appellate court must find from the record that a reasonable factual basis does not exist for the finding of the trial court, and (2) the appellate court must further determine that the record establishes that the finding is clearly wrong (manifestly erroneous). The issue to be resolved by the reviewing court is not whether the trier of fact is right or wrong but whether the factfinder's conclusion was a reasonable one.... The reviewing court must always keep in mind that if the trial court's findings are reasonable in light of the record reviewed in its entirety, the appellate court may not reverse, even if convinced that had it been sitting as trier of fact, it would have weighed the evidence differently.'

Id. at 753-54, quoting Stobart v. State Through DOTD, 617 So. 2d 880 (La.1993).

In the present case, the jury, after hearing conflicting testimony on many of the key elements of this case, found Air Liquide "assumed a duty for safety at [Air Liquide America's] Plaquemine Air Separation Plant," and further found Air Liquide breached that duty. To the contrary, the majority now rejects two weeks of trial

evidence and summarily adopts *carte blanche* Air Liquide's argument that TI-84 was not mandatory and was inapplicable to automatic valves. My careful, studied review of this record makes it abundantly clear a *reasonable factual basis* exists for the jury's findings and these findings are not manifestly erroneous.

TI-84's existence was rooted in Air Liquide's European experiences, involving horrific flash fires like the one at the Plaquemine plant. As a result of its European investigation, showing barrier walls in let-down stations at oxygen generating plants were essential for the protection of the workers, Air Liquide promulgated TI-84 as a set of minimum requirements to be released to all its subsidiaries and its rule was to be respected throughout its group of companies.

I find the jury fully considered Air Liquide's post-accident characterization of TI-84 as a discretionary, informational communication, and reasonably rejected that in favor of the mandatory nature of the promulgation as fully explained in Air Liquide's own translation. The jury knew the importance of TI-84 and that Air Liquide's English translation went unchallenged for over a decade. As the judge instructed, the jury had to make a credibility determination on this factual issue and was well aware of its duty to assess whether Air Liquide's witnesses' testimonies were simply self-serving. In our system of justice, these questions classically fall within the purview of the jury and are subject to manifest error review. Unlike the majority's new characterization of this seminal document as "a communication or concern about workplace safety," slip op. at 7, the jury heard conflicting testimony on this issue and chose not to accept Air Liquide's self-serving testimony. Despite Air Liquide's contrary, self-serving assertion at trial about whether the French edition of this requirement was discretionary, its contemporaneous English translation left no doubt its subsidiaries lacked discretion in the implementation of TI-84. Therefore, I find the jury reasonably interpreted TI-84 against Air Liquide because it was Air Liquide who provided the English translation and never asserted a different interpretation prior to this accident.

I further disagree with the majority's finding that the requirements of TI-84 were inapplicable to automatic valves at let-down stations. First, the majority's adoption of Air Liquide's contention artificially separates the valves contrary to the evidence. Although it cannot be gainsaid that the automatic and manual valves are spatially separated, the distance of separation is small as Bujol and Perkins said they could see the automatic valve suddenly close as they stood nearby at the manual valve. Secondly, the evidence clearly shows that the manual valve functioned as a means to depressurize the line so that the automatic valve could be isolated and safely inspected. Thus, there is a functional connection between the automatic and manual valves. Moreover, as Chester Grelecki, the plaintiffs' expert, testified, not only would the barrier wall have served as a screen for the workers as they manipulated the manual valve safely behind the wall, it would also have served to alert persons working in the area of these valves that a danger existed. Therefore, I find it would have been reasonable for the jury to conclude the barrier addressed in TI-84 had direct relevance even though the malfunctioning valve was an automatic one.

I likewise disagree with the majority's emphasis on the fact Air Liquide acquired ownership of the Plaquemine plant after its promulgation of TI-84. Although Air Liquide acquired ownership of the Plaquemine plant after its promulgation of TI-84, it failed to insure this plant's compliance with TI-84 even though it doubled the plant capacity after acquiring its ownership. As the jury learned, Claude Tronchon, the General Manager of Risk Management for Air Liquide, testified he was shocked to find out Air Liquide's safety director, Gerard Campion, had not audited the Plaquemine plant for compliance with Air Liquide's health and safety policies.

I find that with the promulgation of TI-84, Air Liquide assumed a key aspect of its subsidiary's duty with regard to work place safety. Albeit Air Liquide did not supplant the duty of its subsidiary to provide a safe workplace in all respects, Air Liquide's adoption of TI-84 carved out a discrete aspect of safety, namely at let-down stations, for which a subsidiary within the Air Liquide Group was given no discretion.[1] Air Liquide's wording of TI-84 lends itself to no other conclusion.

Tronchon admitted the Plaquemine plant was not following the directives of TI-84, and yet he did not attempt to remedy that situation because no accidents or explosions had occurred at a let-down station on those premises. This failure to implement TI-84 at the Plaquemine plant so that safety initiatives adopted in Europe were applied to protect these plaintiffs constitutes Air Liquide's breach of an assumed duty. The jury so found and its findings were reasonably based upon the evidence adduced.

Therefore, I find no error in the appellate court's affirmation of the jury verdict that found Air Liquide and its insurers liable to the plaintiffs for compensatory damages. Manifest error review and this Court's long line of established jurisprudence call for the affirmation of this reasonably considered jury verdict. For these reasons, I respectfully dissent.

---

[1] The mere fact that Air Liquide is the ultimate parent corporation of Air Liquide America does not impose a duty upon Air Liquide to provide Air Liquide America's employees with a safe place to work. Louisiana law has been clear that a corporation is a distinct legal entity apart from its shareholders and the shareholders of a corporation organized after January 1, 1929, shall not be personally liable for any debt or liability of the corporation. Buckeye Cotton Oil Co. v. Amrhein, 121 So. 602 (La. 1929; LA. REV. STAT. ANN. § 12:93(B). Although the jurisprudence shows no case has imposed upon a parent corporation a duty to control its subsidiary's acts, Joiner v. Ryder System Inc., 966 F.Supp. 1478, 1483 (C.D. Ill. 1996), the present case involves an instance of a party who voluntarily undertakes a task that he otherwise has no duty to perform. To this extent, I take no exception to the majority's general statement that a duty is not automatically imposed on a parent company.