

STATE OF LOUISIANA

COURT OF APPEAL, FIRST CIRCUIT

ELIZABETH BROWN, SARA DAVIS,
DELORES DAVIS, AND STUART
FREEMAN

NO. 2018 CW 1203
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VERSUS

WILLIAM WHITED, GAYLORD
BELL, THE HERTZ CORPORATION,
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, AND APRIA
HEALTHCARE, LLC AKA APRIA
HEALTHCARE, INC.

DEC 18 2018

In Re: State Farm Mutual Automobile Insurance Company,
applying for supervisory writs, 19th Judicial District
Court, Parish of East Baton Rouge, No. 657293.

BEFORE: McDONALD, CRAIN, AND HOLDRIDGE, JJ.

WRIT NOT CONSIDERED. This writ application fails to comply with the Uniform Rules of Louisiana Courts of Appeal, Rule 4-5(C)(6), (8), and (11). Relator failed to include a copy of the original petition, judgment, notice of intent, and order setting the return date.

Supplementation of this writ application and/or an application for rehearing will not be considered. Uniform Rules of Louisiana Courts of Appeal, Rules 4-9 and 2-18.7.

If relator seeks to file a new application with this court, it must contain all pertinent documentation, the missing items noted above, and must comply with Uniform Rules of Louisiana Courts of Appeal, Rule 2-12.2. Any new application must be filed on or before January 2, 2019, and must contain a copy of this ruling.

GH
JMM

Crain, J., concurs. I write separately to address a defect in these proceedings that appears to be being repeated. The writ application indicates the trial court ordered a written judgment be submitted within three days of its ruling in open court; therefore, the thirty-day period for filing an application for supervisory review began upon notice of that written judgment being mailed. See Uniform Rules - Courts of Appeal, Rule 4-3; see also La. Code Civ. P. art. 1914. Here, after making her oral ruling, the trial judge *sua sponte* set a return date of five days to file any application for supervisory review. Although a trial court has the inherent power to act as is reasonably necessary to maintain control of its docket (see Wallace v. PFG, 2004-1080 (La. App. 1st Cir. 5/6/05), 916 So.2d 175, 178), Rules 4-2 and 4-3 of the Uniform Rules of the Courts of Appeal allow the trial court to **only** set a return date **after** notice of intention is provided **by a party or counsel of**

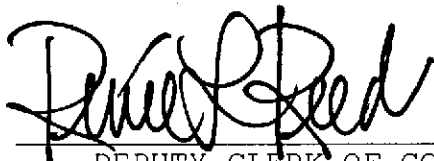
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record. A trial court exceeds its authority by *sua sponte* setting a return date **before** a party or a party's counsel provides notice of intent and requests a return date. Consequently, the five-day return date set by the trial court in this matter is without legal authority or effect. Consideration of any writ application and the exercise of supervisory jurisdiction is improper until a written judgment (when required) is submitted, signed, and noticed; a party gives written notice of intent and a return date is properly set according to Rules 4-2 and 4-3 of the Uniform Rules of the Courts of Appeal; and a writ application complying with the applicable procedural rules is filed with this court. Since none of these required steps were followed here, I agree the subject writ application cannot be considered.

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT