

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

ELIZABETH C. EURE

NO. 2021 CW 1061

VERSUS

DONALD C. EURE

NOVEMBER 5, 2021

In Re: Donald C. Eure, applying for supervisory writs, 23rd
Judicial District Court, Parish of Ascension, No.
116074.

BEFORE: WHIPPLE, C.J., PENZATO AND HESTER, JJ.

WRIT DENIED.

VGW
CHH

Penzato, J., concurs in part and dissents in part. I find the trial court erred in its March 24, 2021 judgment denying the defendant, Donald C. Eure's, exception of *res judicata*, because the plan administrator "qualified" the Domestic Relations Order on November 4, 2020 pursuant to La. R.S. 9:2801(B). Therefore, the Order is a final judgment that cannot be modified. **Pembo v. Pembo**, 2017-1153 (La. App. 1st Cir. 6/28/19), 280 So.3d 656, 660-61. Substantive amendments to judgments can be made only by consent of the parties or after a party has successfully litigated a timely application for new trial, an action for nullity, or a timely appeal. **Id.** Accordingly, I would reverse the portion of the trial court's March 24, 2021 judgment which denied the exception of *res judicata* filed by the defendant, grant the exception of *res judicata* and dismiss the claims of plaintiff, Elizabeth Eure, asserted in her rule to modify domestic relations order. I would deny as moot the remainder of the writ as to the exception of unauthorized use of summary proceedings.

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DEPUTY CLERK OF COURT
FOR THE COURT