

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

FELIX GILLESPIE

NO. 2022 CW 0603

VERSUS

WILLIAM GUILLORY, SAFEWAY
TRANSPORTATION, LLC; MARTIN
TRANSPORT, INC.; PLAZA
INSURANCE COMPANY

SEPTEMBER 02, 2022

In Re: Felix Gillespie, applying for supervisory writs, 18th
Judicial District Court, Parish of West Baton Rouge,
No. 43985.

BEFORE: McDONALD, McCLENDON, AND HOLDRIDGE, JJ.

WRIT GRANTED IN PART AND DENIED IN PART. The trial court's December 15, 2021 Order on Evidence, which appears to have granted in part the Joint Motion for Entry of Judgment and other relief filed by defendants, William Guillory, Safeway Transportation, LLC, Plaza Insurance Company, and Hallmark Specialty Insurance Company, is vacated. If a final judgment is signed, defendants' remedy is through either a motion for new trial or motion for judgment notwithstanding the verdict. See La. Code Civ. P. art. 1972(1) ("A new trial shall be granted ... [w]hen the verdict or judgment appears clearly contrary to the law and the evidence."); **LAD Services of Louisiana, L.L.C. v. Superior Derrick Services, L.L.C.**, 2013-0163 (La. App. 1st Cir. 11/7/14), 167 So.3d 746, 752, ("[t]he procedural device of JNOV, authorized by LSA-C.C.P. art. 1811, allows a trial judge to rectify an erroneous jury verdict by changing the jury's finding on liability, or damages, or both"). However, prior to the rendition of a final judgment, the trial court may hold any hearings as to the date of death of the plaintiff, Felix Gillespie, and the substitution of the proper parties plaintiff. Accordingly, the trial court's December 15, 2021 Order on Evidence is vacated. In all other respects, the writ is denied.

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DEPUTY CLERK OF COURT
FOR THE COURT