

NOT DESIGNATED FOR PUBLICATION

ARLAN DOWELL * **NO. 2001-CA-0913**
VERSUS * **COURT OF APPEAL**
ANDREW J. BEUCHER, ROY * **FOURTH CIRCUIT**
B. OLSON AND NATIONAL * **STATE OF LOUISIANA**
CAR RENTAL SYSTEM, INC.

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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2000-15717, DIVISION "D"
HONORABLE LLOYD J. MEDLEY, JUDGE

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JUDGE MAX N. TOBIAS, JR.

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(COURT COMPOSED OF JUDGE CHARLES R. JONES, JUDGE
PATRICIA RIVET MURRAY, AND JUDGE MAX N. TOBIAS, JR.)

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REVERSED AND REMANDED

The plaintiff, Arlen Dowell (“Dowell”), appeals the trial court’s granting of an exception of no cause of action filed by Roy B. Olson (“Olson”). For the following reasons, we reverse and remand the matter to the trial court for further proceedings.

In his original petition filed on 16 October 2000, Dowell alleges that on 9 September 2000, while traveling in the left-hand lane of St. Charles Avenue on his bicycle, he sustained injuries when Andrew J. Beucher (“Beucher”) opened the right hand passenger door of Olson’s rental car into his path. Olson is alleged to have been “parked in the River side parking lane of St. Charles Avenue.” On 11 January 2001, Olson filed an exception of no cause of action asserting that Dowell failed to state a cause of action against him because he “was not even in the vehicle” at the time of the accident. In essence, Olson urged that Dowell alleged no act of negligence against him. A hearing date on the exception was set for 9 March 2001.

On 16 February 2001, Dowell filed a supplemental and amending petition alleging, *inter alia*, that Olson’s vehicle was parked fifty feet west

of Poydras Street, and “[s]uch action by OLSON as described required his passenger, BEUCHER[,] to disembark on the side adjacent to moving traffic.” Dowell further alleged that Olson had “improperly” parked the vehicle thus requiring Beucher to disembark in a manner that obstructed the right-of-way of vehicles traveling in the left-hand lane of St. Charles Avenue.

On 9 March 2001, after hearing oral argument, the trial court sustained the exception dismissing Olson from the suit.

We find that the supplemental and amending petition of Dowell cured and mooted the failure of Dowell to allege in his original petition the negligence of Olson. No technical forms of pleading are required. La. C.C.P. art. 854. Pleadings are liberally construed. We read Dowell’s allegation that Olson “improperly” parked to include, by implication, that Olson negligently parked his vehicle in such a manner that it resulted in the ensuing accident.

Accordingly, we find that Dowell’s petition as supplemented and amended, states a cause of action against Olson. We therefore reverse the judgment of the trial court and remand the matter for further proceedings consistent with the law and the evidence.

REVERSED AND REMANDED