

**MOSKAU ACOUSTICS, INC.**

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**NO. 2001-CA-1652**

**VERSUS**

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**COURT OF APPEAL**

**COMMUNITY CARE, L.L.C.**

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**FOURTH CIRCUIT**

**D/B/A COMMUNITY CARE**

**HOSPITAL C.E.M. GENERAL**

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**STATE OF LOUISIANA**

**CONTRACTORS A/K/A**

**CONSTRUCTION &**

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**ENVIRONMENTAL**

**MANAGEMENT, LLC**

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APPEAL FROM  
FIRST CITY COURT OF NEW ORLEANS  
NO. 98-56842, SECTION "C"  
Honorable Sonja M. Spears, Judge

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**JOAN BERNARD ARMSTRONG**

**JUDGE**

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**(ON REHEARING)**

(Court composed of Judge Joan Bernard Armstrong, Judge Patricia Rivet Murray and Judge Dennis R. Bagneris, Sr.)

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**REHEARING DENIED IN PART AND GRANTED IN PART.**

The petition for rehearing is denied in part and granted in part. The trial court's characterization of Mr. Kavanaugh's deposition testimony as relating to amounts actually owed as opposed to settlement discussions is not clearly wrong/manifestly erroneous so appellant's point regarding admissibility of settlement discussions is inapplicable. The typographical error in the writ of fi fa did not affect the validity of the garnishment. As to the two just-discussed points, the petition for rehearing is denied. However, appellant now, on rehearing, states that a judgment against appellant and in favor of Frey Plumbing Company has been entered in the trial court and affirmed by another panel of this court. Whether that development affects appellant's liability to Moskau Acoustics, Inc. was not raised previously in this appeal and, in any case, cannot be decided without an evidentiary record as to this point. Therefore, we remand this action to the trial court for

proceedings to determine whether the judgment in favor of Frey, and the affirmance of the judgment, affect appellant's liability to Moskau Acoustics, Inc. in this garnishment action.

**REHEARING DENIED IN PART AND GRANTED IN PART.**