

**NATHANIEL DOWL, JR.,  
INDIVIDUALLY AND AS  
ADMINISTRATOR OF THE  
SUCCESSION OF NATHANIEL  
DOWL, SR.**

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**NO. 2004-CA-1182**

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**COURT OF APPEAL**

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**FOURTH CIRCUIT**

**VERSUS**

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**STATE OF LOUISIANA**

**REDI CARE HOME HEALTH  
ASSOCIATION D/B/A REDI  
CARE/PRIMARY MEDICAL  
GROUP AND THE XYZ  
INSURANCE COMPANY**

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**CANNIZZARO, J. DISSENTS WITH REASONS**

I respectfully dissent from the dismissal of this appeal. The trial court judge stated in the transcript of the June 18, 2004 hearing on the motion for new trial that “the Court is going to deny the Motion for New Trial because there has not been any new evidence presented that would suggest otherwise.” Therefore, I disagree with the majority that “[t]he record is devoid of any evidence of the trial court’s disposition on the Motion for New Trial.”

Pursuant to La. C.C.P. art. 2087(D), a premature order of appeal “becomes effective upon the denial of such motion [a motion for a new trial or a judgment notwithstanding the verdict].” Based on La. C.C.P. art. 2087 (D), I would not dismiss this appeal.