

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

06-1211

DOUGLAS ZUBERBIER ET UX.

VERSUS

ACADIAN AMBULANCE SERVICE, INC.

**APPEAL FROM THE
FIFTEENTH JUDICIAL DISTRICT COURT,
PARISH OF LAFAYETTE, NO. 20054878
HONORABLE KRISTIAN EARLES, DISTRICT JUDGE**

**JIMMIE C. PETERS
JUDGE**

Court composed of John D. Saunders, Jimmie C. Peters, and Michael G. Sullivan,
Judges.

APPEAL DISMISSED; CASE TRANSFERRED.

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SUMMARY DISPOSITION

PETERS, J.

This is an appeal by the plaintiffs, Douglas and Brandy Zuberbier, from a judgment granting an exception of no cause of action filed by Acadian Ambulance Service, Inc. as to the Zuberbiers' petition to annul a prior judgment. Acadian Ambulance Service, Inc. has also answered the appeal, seeking damages in the form of attorney fees.

Following judgment granting the exception, the Zuberbiers filed two motions for new trial. Rather than disposing of the motions for new trial, the trial court simply wrote "Denied" across the rules to show cause submitted in connection with the motions. We have previously held that such a notation on a rule to show cause is insufficient to constitute a judgment on a motion for new trial. *See Egle v. Egle*, 05-531 (La.App. 3 Cir. 2/8/06), 923 So.2d 780. Because the trial court failed to dispose of the motions, the order of appeal was premature, and the trial court, therefore, has not been divested of jurisdiction. *See id.* Accordingly, we do not have jurisdiction. *See id.* Thus, we dismiss the appeal and transfer the case to the trial court for proper disposition of the Zuberbiers' motions. *See id.* We tax costs of this appeal to the Zuberbiers.

APPEAL DISMISSED; CASE TRANSFERRED.

We dismiss the appeal and remand the case in a summary disposition in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.2(A)(1).

This opinion is NOT DESIGNATED FOR PUBLICATION. Uniform Rules—Courts of Appeal, Rule 2-16.3.