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NO. 15-CA-377

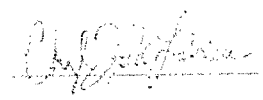
FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

COURT OF APPEAL  
FIFTH CIRCUIT

FILED JUL 20 2015

  
CLERK  
Cheryl Guirk Landiron

JOAN HAAS FOLSE, ON BEHALF OF THE DECEASED, LLOYD J. FOLSE, CARLA SIMMONS, ON BEHALF OF THE DECEASED, FRANK MORRIS, WYNESTA R. GASTON, ON BEHALF OF THE DECEASED, SHERMAN GASTON, ROSE LEE W. GASTON, ON BEHALF OF THE DECEASED, RAYFIELD GASTON, JR., EVELYN GAUTHREAUX, ON BEHALF OF THE DECEASED, MURPHY J. GAUTHREAUX, SHARON GAUTHREAUX, ON BEHALF OF THE DECEASED, EARL GAUTHREAUX, JOYCE A. GEORGE, ON BEHALF OF THE DECEASED, CLARENCE GEORGE, JR., WAYNE GUIDRY, ON BEHALF OF THE DECEASED, TILMAN A. GUIDRY, DOROTHY S. HARPER, ON BEHALF OF THE DECEASED, L. J. HARPER, LEONTINE HARRIS, ON BEHALF OF THE DECEASED, FREDDIE HARRIS, ALINE HILL, ON BEHALF OF THE DECEASED, RAYMOND HILL, MYRTLE SHIELDS, ON BEHALF OF THE DECEASED, JAMES JACKSON, SHIRLEY JACKSON, ON BEHALF OF THE DECEASED, H. L. JACKSON, JOYCE J. JOHNSON, ON BEHALF OF THE DECEASED, JESSIE JOHNSON, JR., SHARLENE KELLUP, ON BEHALF OF THE DECEASED, ISIAH KELLUP, JR., OTILIA BATISTE, ON BEHALF OF THE DECEASED, JOSEPH W. LEBLANC, SR., EVELYN BOUTTE, ON BEHALF OF THE DECEASED, STUART A. LIRETTE, SR., BEATRICE MATTHEWS, ON BEHALF OF THE DECEASED, RICHARD MATTHEWS, JR., HERMINA MCCALL, ON BEHALF OF THE DECEASED, ROBERT MCCALL, EVELYN GARRISON, ON BEHALF OF THE DECEASED, JIMMIE MCGEE, VIRGINIA DIMARCO, ON BEHALF OF THE DECEASED, LESLIE W. MEAD, DONNA MEERMAN, ON BEHALF OF THE DECEASED, LEONARDUS H. MEERMAN, JR., ROSEMARY CLARK, ON BEHALF OF THE DECEASED, NOBLE MORTON, JR., VANESSA NAPOLEON, ON BEHALF OF THE DECEASED, CHARLES NAPOLEON, JR., AMELIA SIMONEAUX PAUGH, ON BEHALF OF THE DECEASED, MARVIN R. PAUGH, LEOLA POLLARD, ON BEHALF

OF THE DECEASED, KEVIN J. POLLARD,  
LINDA PRICE, ON BEHALF OF THE  
DECEASED, GARY I. PRICE, MARGIE  
STEVENSON, ON BEHALF OF THE  
DECEASED, FRANK RAYMOND, JR.,  
PATRICE R. CLOFER, ON BEHALF OF THE  
DECEASED, JAMES H. ROUSSELL,  
DEBORAH DESERAUX, ON BEHALF OF  
THE DECEASED, DETROIT ROY, OLIVE  
CROMWEL, ON BEHALF OF THE  
DECEASED, AUBREY B. SMALLS, KIM  
TRAN, ON BEHALF OF THE DECEASED,  
TONG B. TRAN, WILLIE MAE VALET, ON  
BEHALF OF THE DECEASED, LEROY  
VALET, KEION WALKER, ON BEHALF OF  
THE DECEASED, WILLIAM WALKER, SR.,  
HARRIET HOVLAND WHELAN, ON  
BEHALF OF THE DECEASED, ARLEN A.  
WHELAN, JAMES WILLIAMS, ON BEHALF  
OF THE DECEASED, ALBERT WILLIAMS,  
ROSE WILSON, ON BEHALF OF THE  
DECEASED, FRED WILSON, JR., MYRNA  
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DECEASED, STEPHEN C. YANCEY, LARRY  
BOURG, SR., ON BEHALF OF THE  
DECEASED, LARRY P. BOURG, JR.,  
YVETTE BURKS, ON BEHALF OF THE  
DECEASED, YVETTE C. BURKS, WILLIAM  
COOK, ON BEHALF OF THE DECEASED,  
JOYCE E. COOK, MARILYN FORET, ON  
BEHALF OF THE DECEASED, STELLA C.  
LIRETTE, MAXINE STEVENSON, ON  
BEHALF OF THE DECEASED, SEAN K.  
RAYMOND, DWAYNE WILLIAMS, ON  
BEHALF OF THE DECEASED, RANIERE M.  
WILLIAMS

VERSUS

EXXON MOBIL CORPORATION, EXXON  
MOBIL OIL CORPORATION, CHEVRON  
USA, INC., CONOCOPHILLIPS COMPANY,  
MARATHON OIL COMPANY, SHELL  
OFFSHORE, INC., SHELL OIL COMPANY,  
AMERICAN OIL COMPANY, BP  
EXPLORATION & PRODUCTION, INC.,  
UNION OIL COMPANY OF CALIFORNIA,  
MAXUS BULGARIA, INC., PLACID OIL  
COMPANY, SWEPI LP, HUMBLE  
INCORPORATED, OCCIDENTAL

PETROLEUM CORPORATION, TEXACO,  
INC., ALPHA TECHNICAL SERVICES, INC.,  
THOMAS ENERGY SERVICES, INC.,  
FRENCH JORDAN, INC., OFS, INC.,  
INTRACOASTAL TUBULAR SERVICES,  
INC., PLASTIC APPLICATORS, INC., H.C.  
PRICE COMPANY, TUBOSCOPE VETCO  
INTERNATIONAL, INC., BREDERO PRICE  
COMPANY, BREDERO PRICE, INC.

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 670-803, DIVISION "J"  
HONORABLE BRADY M. FITZSIMMONS, JUDGE AD HOC PRESIDING

COURT OF APPEALS  
FIFTH CIRCUIT

JULY 29, 2015

FILED 10 3 8 105

**HANS J. LILJEBERG**  
JUDGE

  
CLERK  
Cheryl Quirk Landreau

Panel composed of Judges Susan M. Chehardy,  
Marc E. Johnson, and Hans J. Liljeberg

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JEREMIAH A. SPRAGUE  
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**MOTION TO DISMISS**  
**APPEAL GRANTED;**  
**REMANDED.**

SMC  
MSJ

Appellees, Exxon Mobil Corporation, Exxon Mobil Oil Corporation and Humble Incorporated, filed a motion to dismiss the appeal filed by appellants, Karen Alexie Rodrigue, Hermina McCall and Edna Raymond. For the following reasons, we grant appellees' motion to dismiss the appeal and remand this matter back to the trial court to enter a written judgment on appellants' motions to dismiss with prejudice.

On January 13, 2015, appellants each filed a motion to dismiss their wrongful death claims with prejudice. Appellees opposed these motions because they sought to limit the dismissal to the wrongful death claims as opposed to a "complete dismissal with prejudice of all of Plaintiff's claims in the case." The trial court set appellants' motions to dismiss for hearing and then took them under advisement on January 22, 2015. On February 29, 2015, the trial court issued "Reasons for Judgment" indicating its intent to deny each of the appellees' motions to dismiss with prejudice. The trial court did not enter any written judgments with respect to the motions to dismiss.

On April 29, 2015, appellants filed a motion for devolutive appeal which stated appellants were moving "for a devolutive appeal in this matter regarding

the ruling of this trial court on January 22, 2015, granting Defendants' Motion for Summary Judgment." On that same day, appellants filed a motion to designate the record, seeking to limit the record to their motions to dismiss with prejudice, motions for summary judgment filed by appellees and other defendants, the January 22, 2015 hearing transcript and the "Judgment and Reasons for Judgment signed February 19, 2015." Appellants also filed an assignment of errors pursuant to La. C.C. P. art. 2129, which alleged, *inter alia*, that the trial court wrongfully denied their motions to dismiss with prejudice. On May 6, 2015, appellees filed a counter-designation of record.

In their motion to dismiss the appeal, appellees argue the trial court's reasons for judgment denying the motions to dismiss with prejudice are not final appealable judgments. Appellees also note the motion for devolutive appeal only refers to the trial court's January 22, 2015 ruling granting a summary judgment motion which did not address any of appellants' claims.<sup>1</sup>

In their opposition to the motion to dismiss the appeal, appellants agree they intended to appeal the denial of their motions to dismiss with prejudice, not the granting of a summary judgment.<sup>2</sup> They further agree the trial court's denial of their motions to dismiss with prejudice are not final appealable judgments and request that this Court convert their appeal into an application for a supervisory writ.

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<sup>1</sup> According to the January 22, 2015 hearing transcript, the trial court heard numerous exceptions and motions on that date. Appellees' summary judgment motions sought the dismissal of claims filed against them by co-plaintiff, Harold Bowie. Mr. Bowie is represented by the same plaintiffs' attorneys as appellants in this matter and Mr. Bowie also has an appeal pending before this Court (15-CA-313), with respect to the granting of these summary judgment motions.

<sup>2</sup> It appears from the record that all parties understood appellants intended to appeal the denial of their motions to dismiss with prejudice. When considering similar references to the incorrect judgment, the Louisiana Supreme Court has declared that appeals are favored by the courts, they should be dismissed only for substantial cause, and unless the grounds urged for dismissal are free from doubt, appeals will be maintained. *See Glasgow v. Par Minerals Corp.*, 10-2011 (La. 5/10/11), 70 So.3d 765, 767, n.3; *Kirkeby-Natus Corp. v. Campbell*, 199 So.2d 904, 905 (La. 1967). In *Glasgow*, the Supreme Court declined to dismiss an appeal "for what appears to be only a typographical mistake prejudicing no one." *Id.*

The parties agree this appeal is improper due to the absence of a final appealable judgment. However, we further find the record does not contain a written judgment which formally rules upon appellants' motions to dismiss with prejudice. La. C.C.P. art. 1914(B) provides that an "interlocutory judgment shall be reduced to writing . . . if the court takes the interlocutory matter under advisement." Furthermore, it is well settled a trial court's judgment and reasons for judgment are two separate and distinct legal documents, and a request for appellate review must be taken from the judgment, not the written reasons for judgment. See *McCalmont v. Jefferson Parish Sheriff's Office*, 99-940 (La. App. 5 Cir. 1/12/00), 748 So.2d 1286, 1290, *writ denied*, 00-0679 (La. 4/20/00), 760 So. 2d 1160; *Parish of St. Charles v. Young*, 99-411 (La. App. 5 Cir. 12/15/99), 750 So. 2d 276.

For these reasons, we dismiss appellants' appeal and remand this matter to the trial court to enter written judgments on the motions to dismiss with prejudice filed by appellants.

**MOTION TO DISMISS**  
**APPEAL GRANTED;**  
**REMANDED.**



SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
ROBERT A. CHAISSON  
ROBERT M. MURPHY  
STEPHEN J. WINDHORST  
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MARY E. LEGNON  
CHIEF DEPUTY CLERK

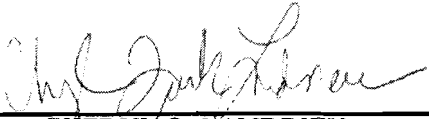
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DIRECTOR OF CENTRAL STAFF

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## **NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **Uniform Rules - Court of Appeal, Rule 2-20** THIS DAY **JULY 29, 2015** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

  
CHERYL Q. LANDRIEU  
CLERK OF COURT

# 15-CA-377

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