

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

CHERYL WILLIAMS AND WAYNE
PROVO

NO. 2013 CW 0156

VERSUS

NANCY AND ARTHUR HEBERT AND
XYZ INSURANCE COMPANY

MAR 25 2013

In Re: Nancy Hebert and State Farm Fire and Casualty Company, applying for supervisory writs, 18th Judicial District Court, Parish of Iberville, No. 69870.

BEFORE: KUHN, PETTIGREW AND McDONALD, JJ.

WRIT GRANTED; JUDGMENT VACATED. The trial court specifically refused to hold a hearing on the defendants' motion for summary judgment, despite the submission of a rule to show cause requesting that the matter be set for hearing in compliance with Louisiana District Court Rule 9.8(a). Instead, the trial court issued its ruling based solely on the memoranda submitted by the parties. This was a procedural defect in the summary judgment proceeding. Louisiana Code of Civil Procedure article 966(D) requires that the "court shall hear and render judgment on the motion for summary judgment within a reasonable time." (Emphasis added.) Because the motion for summary judgment was never heard and the hearing on the motion was not waived by the parties, the granting of the motion without a hearing was procedurally improper. See *Rider v. Ambeau*, 2011-0532, fn 3 (La. App. 1 Cir. 2/1/12), 100 So.3d 849. We, therefore, vacate the judgment of the trial court dated November 13, 2012, and remand the matter to the trial court for a hearing on the motion for summary judgment.

JTP
JMM
JEK

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DEPUTY CLERK OF COURT

FOR THE COURT