

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

CAROLYN TACKETT

NO. 2013 CW 2152

VERSUS

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JONATHAN MARTIN, PTA, NORTH  
OAKS OUTPATIENT  
REHABILITATION SERVICES,  
TANGIPAHOA HOSPITAL SERVICE  
DISTRICT #1 D/B/A NORTH OAKS  
HEALTH SYSTEM, AND NORTH  
OAKS HEALTH SYSTEM  
FOUNDATION

**MAY 08 2014**

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In Re: Jonathan Martin, PTA, North Oaks Outpatient Rehabilitation Services, Tangipahoa Hospital Service District #1 d/b/a North Oaks Health System, and North Oaks Health System Foundation, applying for supervisory writs, 21st Judicial District Court, Parish of Tangipahoa, No. 2012-0001788.

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**BEFORE: PETTIGREW, McDONALD, WELCH, HIGGINBOTHAM, AND CRAIN, JJ.**

**WRIT GRANTED.** Pursuant to a *de novo* review, we find that the defendants, Jonathan Martin, PTA, and North Oaks Outpatient Rehabilitation Services, Tangipahoa Hospital Service District #1, D/B/A North Oaks Health System, and North Oaks Health System Foundation [North Oaks] met their initial burden on summary judgment by pointing out an absence of factual support for one or more essential elements. We find that the burden shifted to plaintiff, Carolyn Tackett, and she failed to produce factual and expert evidence sufficient to establish that she will be able to satisfy her evidentiary burden of proof at trial. La. Code Civ.P. art. 966; **Scott v. Leonard J. Chabert Medical Center**, 2010-0192 (La. App. 1st Cir. 12/22/10), 53 So.3d 714, 719-20. Accordingly, the writ is granted and the December 11, 2013 judgment denying Jonathan Martin and North Oaks' motion for summary judgment is reversed. We grant summary judgment in favor of the defendants and dismiss plaintiff's petition with prejudice.

**JMM**  
**JEW**

**HIGGINBOTHAM, J.** concurs for reasons assigned by Judge Crain.

**CRAIN, J.** concurs and assigns reasons:

The defendants' motion for summary judgment specifically placed at issue whether "there was a causal link between Carolyn Tackett's alleged damages and any alleged deviation from the

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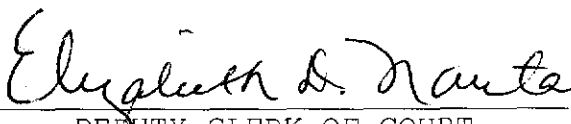
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applicable standard of care by the Defendants." In support of their motion, the defendants' expert, Dr. Peter Krause, upon reviewing the radiology studies, presented the opinion that "Ms. Tackett's left leg fracture did not occur on November 19, 2009". The burden then shifted to plaintiff who failed to produce expert evidence sufficient to establish that she will be able to satisfy her evidentiary burden of proof at trial relative to this critical fact bearing on medical causation. Consequently, the defendants are entitled to judgment as a matter of law.

**PETTIGREW, J.** dissents.

COURT OF APPEAL, FIRST CIRCUIT

  
DEPUTY CLERK OF COURT  
FOR THE COURT