

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

CARMEN NICHOLAS

NO. 2014 CW 1814

VERSUS

TERRY L. BONNIE

MAY 15 2015

In Re: Carmen Nicholas, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. C616866.

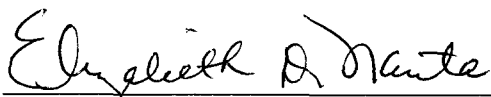
BEFORE: GUIDRY, HIGGINBOTHAM, CRAIN, THERIOT AND DRAKE, JJ.

WRIT GRANTED. The trial judge's ruling nullifying and vacating the consent judgment between the parties as to the issue of liability in the legal malpractice suit is reversed. See **Hebert v. Drewitz**, 2009-0798 (La. App. 1st Cir. 10/27/09), 29 So.3d 607, 607-09 (this Court concluded that the trial court erred in modifying the terms and substance of the consent judgment, where neither party sought to have the consent judgment annulled or rescinded for error.) The binding force of a consent judgment is from the parties' acquiescence and unless there is some error of fact or of the principal cause, the agreement cannot be annulled or rescinded. The trial judge's action in raising the grounds for annulling a consent judgment was erroneous where the defendant did not make any allegations of fraud or ill practices and did not file a petition to annul the consent judgment. See La. Code Civ. P. 2003; **Horrigan v. Horrigan**, 2010-1377 (La. App. 1st Cir. 6/14/11), 70 So.3d 111, 112-13, writ denied, 2011-1596 (La. 10/7/11), 71 So.3d 325, (judgment could not be annulled where fraud or ill practices were not alleged by either party).

**MRT
EGD
TMH**

Guidry and Crain, J.J., dissent and would deny the writ. Ms. Nicholas seeks review of the trial court's ruling annulling the consent judgment as to the issue of liability in the legal malpractice suit. Rulings of this type have been reviewed by Louisiana courts under its appellate jurisdiction. See **State v. Batchelor**, 597 So.2d 1132, 1133 (La. App. 1st Cir.), writ denied, 604 So.2d 964 (La. 1992); **W.G.T. v. E.A.A.**, 2014-4 (La. App. 5th Cir. 9/10/14), 150 So.3d 339, 341-50. Moreover, neither the writ application nor information this Court has obtained from the Clerk of Court of East Baton Rouge Parish indicates that there is a signed and written final judgment evidencing this ruling, which is necessary for review on appeal.

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