

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

LANGE WALKER ALLEN, II

NO. 2014 CW 1870

VERSUS

SUSAN TAYLOR ALLEN

FEBRUARY 2, 2015

In Re: Lange Walker Allen, II, applying for supervisory writs, 22nd Judicial District Court, Parish of St. Tammany, No. 2011-14151 c/w 2011-15433.

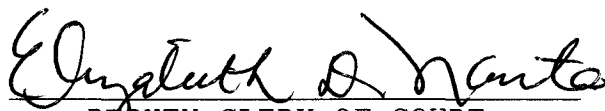
BEFORE: McDONALD, CRAIN AND HOLDRIDGE, JJ.

WRIT DENIED; STAY DENIED. This Court declines to exercise its supervisory jurisdiction. The criteria set forth in **Herlitz Construction Co. Inc. v. Hotel Investors of New Iberia, Inc.**, 396 So.2d 878 (La. 1981) (per curiam) are not met.

JMM
WJC

Holdridge, J., dissenting in part and concurring in part. I would grant the writ and reverse the Trial Court judgment of November 10, 2014 as to the dismissal with prejudice of the claims of unjust enrichment and fraudulent inducement. Code of Civil Procedure articles 933 and 934 specially state the court shall order the amendment of the pleadings within the delay allowed by the court if the amendment can cure the objections raised in the exceptions. However, the relator had over two years from the judgment of January 9, 2013 to amend his petition and to remove any objections raised by the exceptions of no cause of action and vagueness, and he failed to do so. Therefore, the judgment of January 9th complies with the requirements of Articles 933 and 934 to amend and the relator is not entitled to further relief. Accordingly, I would not order the trial court to continue the trial date of February 5, 2015.

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DEPUTY CLERK OF COURT
FOR THE COURT