

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

BRENDA CAMPBELL

NO. 2015 CW 0691

VERSUS

ROBERT M. GRODNER AND STATE
FARM FIRE AND CASUALTY
COMPANY

MAY 22, 2015

In Re: Robert M. Grodner, applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 619807.

BEFORE: McDONALD, WELCH, CRAIN, HOLDRIDGE AND CHUTZ, JJ.

WRIT GRANTED. Based on the particular facts of this case, the plaintiff has failed to establish that the defendant owed a duty to the plaintiff, and thus has failed to establish an essential element of her claims. Assuming the allegations of the plaintiff's deposition are true -- that she slipped on dog urine in the commode area of the master bathroom -- there is no duty owed by a homeowner, who has a pet, to a third party to keep their pet from urinating on the floor of the master bathroom when the homeowner is not at home. If such a duty were imposed, a homeowner with a pet would be required, when they leave their home, to: kennel their pet, hire an individual whose duties were to let the pet out on a frequent basis so that the pet would be less likely to urinate on the floor, or require the pet owner to come home and let the pet out on frequent intervals; or otherwise, to get rid of the pet. This defies reason and common sense. Accordingly, we hereby grant the writ application and reverse the April 20, 2015 judgment that denied the defendant's motion for summary judgment. Judgment is rendered granting the motion for summary judgment of Mr. Grodner and dismissing the plaintiff's claims against Mr. Grodner with prejudice.

JMM
JEW

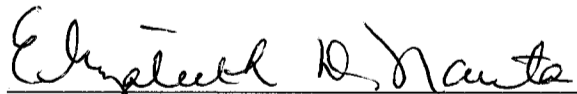
Crain, J., concurring. Even assuming, as argued by Ms. Campbell, that she slipped in dog urine, the defendant, Robert M. Grodner, has pointed out an absence of factual support for the causation element of Ms. Campbell's claim under Louisiana Civil Code article 2321. See **Boyer v. Seal**, 553 So. 2d 827 (La. 1989); see also **Burton v. Landry**, 602 So. 2d 1013 (La. 1992). Additionally, Mr. Grodner has pointed out an absence of factual support for the duty element of Ms. Campbell's claim under Louisiana Civil Code article 2315. Mr. Grodner had no duty to protect plaintiff, who he did not invite to, or expect to be in, his master bathroom, against the risk associated with his domestic pet urinating in that space. With regard to Ms. Campbell's claim under Louisiana Civil Code article 2317.1, Mr. Grodner has pointed out an absence of factual support for finding the existence of a "defect" that presents an "unreasonable risk of harm." With regard to Ms. Campbell's claim under Louisiana Civil Code article 2322, Mr. Grodner has pointed out an absence of factual support for finding that the Grodner residence was in "ruin." Ms. Campbell has failed to produce factual support sufficient to establish that she will be

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able to satisfy her evidentiary burden of proof at trial on these issues. Accordingly, I concur in granting the writ application, reversing the April 20, 2015 judgment that denied Mr. Grodner's motion for summary judgment, and rendering summary judgment in favor of Mr. Grodner and dismissing Ms. Campbell's claims against him with prejudice.

Holdridge and Chutz, JJ. dissent. The defendant homeowner has a duty to keep his premises free from any condition which would create an unreasonable risk of harm to an invited guest. Whether or not the condition in this case was unreasonably dangerous is a material issue of fact which was not established by the evidence submitted in connection with the motion for summary judgment. If a homeowner knows and allows his pet to freely urinate in his premises creating an unreasonably dangerous condition, he definitely has a duty to either clean up the dangerous condition or warn the invited guest of the dangerous condition. In this case, there is no evidence that the defendant attempted to warn the plaintiff of the hazardous condition created by his freely urinating dog.

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