

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

TERESA WALLNER CABALLERO

NO. 2015 CW 0938

VERSUS

DAVID FERNANDO CABALLERO

**OCT 07 2015**

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In Re: Home Servicing, L.L.C., applying for supervisory writs, Family Court, Parish of East Baton Rouge, No. 172,009.

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**BEFORE: GUIDRY, CRAIN, DRAKE, HOLDRIDGE AND CHUTZ, JJ.**

**WRIT GRANTED.** La. R.S. 13:1401(A)(1) does not provide for garnishment against a third party under a judgment of the court for partition of community property, but does provide for garnishment under a judgment for spousal and child support. See Ransome v. Ransome, 2001-2361 (La. App. 1st Cir. 6/21/02), 822 So. 2d 746, 753. Therefore, it is clear and unambiguous that the family court does not have subject matter jurisdiction for this type of garnishment under this statutory provision. *Id.* Further, although La. R.S. 13:1401(B) provides that the family court "has all such additional jurisdiction, power and authority now or hereafter provided by law," there are no other provisions in law that give the family court jurisdiction over the execution of its judgments through garnishment against a third party. Ransome, 822 So.2d at 755. We hereby reverse the May 12, 2015 judgment of the trial court denying the exception of lack of subject matter jurisdiction. The exception of lack of subject matter jurisdiction and the motion to quash subpoena duces tecum are granted.

**JMG**  
**EGD**  
**WRC**


**Crain, J.**, concurs. I am bound by Ransome, but believe it was wrongly decided. See La R.S. 13:1401(A)2(c).

**Holdridge, J.**, dissents. Louisiana Revised Statute 13:1401A (2) gives the Family Court of East Baton Rouge Parish the authority to hear "all actions between former spouses seeking the enforcement of a judicial or contractual settlement of claims provided in this subsection." Subsection 2 gives jurisdiction to the court to hear "all actions between spouses or former spouses for partition of community property." The Family Court's order to allow discovery, the deposition and to produce documents to Home Servicing L.L.C. is in accordance with La. Code of Civil Procedure article 2451 (Judgment Debtor Examinations). This article allows the judgment creditor to examine any person upon any matter relating to the judgment debtor's property as provided by Articles 1421 through 1474 (the discovery articles). This is separate and distinct from the garnishment procedures (La. C.C.P. articles 2411, et seq.) and this Court's decision in Ransome. The majority has stated no statute or jurisprudence which would prevent the Family Court in East Baton Rouge Parish from exercising jurisdiction in a discovery matter which is part of an action to enforce a judicial settlement.

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