

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2015 CU 1321

PAUL ALLEN SPIEWAK

VERSUS

TIANYA MARIA SPIEWAK

consolidated with

NUMBER 2015 CU 1322

TIANYA MARIA LOPEZ SPIEWAK

VERSUS

PAUL ALLEN SPIEWAK

Judgment Rendered: MAR 03 2016

Appealed from the
Twenty-First Judicial District Court
In and for the Parish of Livingston
State of Louisiana
Docket Number 137195 c/w 117228

Honorable Jeffrey T. Oglesbee, Judge

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Albany, LA

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Plaintiff/Appellee
Paul Allen Spiewak

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Defendant/Appellant
Tianya Marie Spiewak

BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

GUIDRY, J.

This matter comes before our court on appeal of a child custody and support judgment, wherein, among other things, the trial court modified the parties' child support obligations and assessed arrearages. During the course of prior proceedings, however, the record indicates that the appellant, Tianya Spiewak, applied for child support enforcement services in accordance with La. R.S. 46:236.1.1-238. See La. R.S. 46:236.1.2(B)(1). Consequently, the Department of Children and Family Services (DCFS) initiated proceedings in the Family Court of East Baton Rouge Parish against the appellee, Paul Allen Spiewak, wherein he was ordered to pay arrearages in the amount of \$38,192, and an income assignment order was rendered against him whereby DCFS collected monthly child support and arrearages payments from Paul to distribute to Tianya.

Louisiana Revised Statutes 46:236.1.9(C) provides that DCFS "shall be an indispensable party to any proceeding involving a support obligation or arrearages owed" under La. R.S. 46:236.1.1-238. Thus, the DCFS is a party needed for just adjudication and was required to be joined as a party in this matter, which defect we notice on our own motion. See La. C.C.P. arts. 641, 645 and 927(A)(4).

When an appellate court notices the absence of indispensable parties to a suit on appeal, the appropriate remedy is to set aside the judgment and remand the matter for joinder of the absent parties and retrial. Terrebonne Parish School Board v. Bass Enterprises Production Company, 02-2119, p. 7 (La. App. 1st Cir. 8/8/03), 852 So. 2d 541, 546, writs denied, 03-2786, 03-2873 (La. 1/9/04), 862 So. 2d 984, 985. Accordingly, we hereby vacate the June 24, 2015 judgment and remand this matter to the trial court for joinder of the DCFS and for retrial. All costs of this appeal are assessed to Paul Allen Spiewak.

VACATED AND REMANDED.