

**STATE OF LOUISIANA**

**COURT OF APPEAL**

**FIRST CIRCUIT**

**2017 CA 0050**

**RICKY PATRICK, BY AND THROUGH  
GLENN PATRICK HIS AGENT**

**VERSUS**

**J. PATRICK, INC. MACHINE, PUMP &  
FABRICATION, MELISA PATRICK AND DALE PATRICK**

**Judgment Rendered: NOV 01 2017**

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On Appeal from the Eighteenth Judicial District Court  
In and for the Parish of West Baton Rouge  
State of Louisiana  
No. 41,821

Honorable, Robert Downing, Ad Hoc Judge Presiding

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John F. Jakuback  
William L. Caughman, III  
Michael J. deBarros  
R. Devin Ricci  
Baton Rouge, LA

Counsel for Plaintiff/Appellee  
Ricky Patrick, By and Through  
Glenn Patrick His Agent

John B. Brumfield, Jr.  
Baton Rouge, LA

Counsel for Defendants/Appellants  
J. Patrick, Inc., Machine, Pump &  
Fabrication, Melisa Patrick and Dale Patrick

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**BEFORE: McCLENDON, WELCH, AND THERIOT, JJ.**

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M.A.  
JEW*

**McCLENDON, J.**

In this appeal, the defendants contest a trial court judgment that found them in contempt of court for failing to turn over certain business records to the plaintiff, a shareholder of the defendant corporation. The judgment also ordered that the defendants allow the plaintiff's counsel and expert to enter onto the defendant corporation's premises to review its business records. For the reasons that follow, we affirm.

**FACTS AND PROCEDURAL HISTORY**

This matter arises out of and is a continuation of a fight for control of a family-held corporation that has resulted in the filing of multiple lawsuits, several of which have been before this Court. With regard to this latest suit, on November 7, 2014, the plaintiff, Ricky Patrick, by and through his agent, Glenn Patrick, filed a Petition for Writ of Mandamus against J. Patrick, Inc., Machine, Pump & Fabrication (J. Patrick Machine), Melisa Patrick, and Dale Patrick, alleging that he sought to examine, as a shareholder of J. Patrick Machine, through his certified public accountant, the corporate records of J. Patrick Marine, and that the defendants not only refused to provide the requested records, but threatened the plaintiff with arrest should he set foot on the premises of J. Patrick Marine. The plaintiff therefore requested that a writ of mandamus issue requiring the defendants to allow the plaintiff and/or his agents to inspect all books and records of J. Patrick Machine.

After the judges of the Eighteenth Judicial District Court recused themselves, an ad hoc judge was appointed to handle the matter. Following a hearing on July 13, 2015, the trial court signed a Stipulated Judgment on Petition for Writ of Mandamus on August 11, 2015, wherein the plaintiff's petition for a writ of mandamus was granted and the defendants were ordered to provide the requested information. Additionally, the trial court limited disclosure of the records to plaintiff's counsel and expert.

Thereafter, on September 15, 2015, the plaintiff filed a motion to hold the defendants in contempt of court for failing to comply with the court's order and requesting penalties until they complied with the order. According to the plaintiff, on September 3, 2015, counsel for the defendants provided a CD with the records listed in

his letter of that date, but that, while some of the corporate records of J. Patrick Machine were provided, none of the financial records of the company were provided.

At the hearing on the motion for contempt, held on November 30, 2015, the parties entered into another stipulation. This stipulation was on the record and read in open court, in which the defendants agreed to produce the requested financial records, including "electronic files such as Quickbooks wherever those records are available." Thereafter, the defendants did produce some records, but rather than providing the electronic files, they exported the information into an Excel spreadsheet, which the plaintiff contends eliminates the ability of the plaintiff's accountants to confirm the veracity of the information contained in the records.

After requesting the records in electronic format on two occasions and receiving no response from the defendants, the plaintiff filed a second motion for contempt on April 4, 2016. The hearing on the second motion for contempt was held on July 27, 2016, and the trial court again ruled in favor of the plaintiff. The trial court signed a judgment on August 19, 2016, granting the plaintiff's motion and finding the defendants in contempt of the court's prior orders. The judgment also provided that the plaintiff was entitled to copy and inspect all QuickBooks files of J. Patrick Machine and that the plaintiff's counsel and expert could enter the business premises and copy all QuickBooks files of J. Patrick Machine in their native electronic format. The defendants were also assessed attorney fees in the amount of \$500.00 plus the costs of filing the second motion for contempt. Lastly, the trial court limited disclosure of the records to counsel for the parties and the plaintiff's expert.

The defendants suspensively appealed and assert the following as error:

1. The trial court was manifestly erroneous and clearly wrong in finding J. Patrick Machine in contempt of court;
2. The trial court committed legal error in issuing an order compelling and requiring J. Patrick Machine, its president, and its secretary-treasurer to allow plaintiff's counsel and expert accountant to enter onto the premises of J. Patrick Machine and copy all QuickBooks files thereof in their native format;  
and

3. The trial court was manifestly erroneous and clearly wrong in failing to find that J. Patrick Machine had completely satisfied all the requirements of the writ of mandamus.

### **DISCUSSION**

Contempt of court is defined in LSA-C.C.P. art. 221 as "any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority." There are two types of contempt. A direct contempt is one committed in the immediate view and presence of the court and of which it has personal knowledge. LSA-C.C.P. art. 222. A constructive contempt of court is any contempt other than a direct one, including willful disobedience of any lawful judgment, order, mandate, writ, or process of the court. LSA-C.C.P. art. 224(2). See also LSA-C.C.P. art. 3785.<sup>1</sup>

To find a person guilty of constructive contempt, it is necessary to find that he or she violated the order of the court intentionally, knowingly, and purposely, without justifiable excuse. **Charter School of Pine Grove, Inc. v. St. Helena Parish School Bd.**, 07-2238 (La.App. 1 Cir. 2/19/09), 9 So.3d 209, 224; **Barry v. McDaniel**, 05-2455 (La.App. 1 Cir. 3/24/06), 934 So.2d 69, 73. The trial court is vested with great discretion in determining whether a party should be held in contempt of court, and its decision will be reversed only when the appellate court discerns a clear abuse of that great discretion. **Haydel v. Pellegrin**, 07-0922 (La.App. 1 Cir. 9/14/07), 970 So.2d 629, 632.

In their appeal, the defendants maintain that LSA-R.S. 12:1-1601, *et seq.*, of the Louisiana Business Corporation Act do not require the release of all data contained in the QuickBooks files in electronic format. They assert that, notwithstanding the requirements of the statutes, they provided financial statements beyond those required

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<sup>1</sup> Louisiana Code of Civil Procedure article 3785 provides:

A person who fails to comply with a writ of habeas corpus, or with a judgment rendered after a hearing on a petition for a writ of habeas corpus, mandamus, or quo warranto may be punished for contempt. When a sentence of imprisonment is imposed for contempt, imprisonment may continue until the defendant obeys the writ or judgment.

by law and were in full compliance with the records and documents requested by the plaintiff. The defendants also contend that the files of J. Patrick Machine, in their electronic format, contain financial data and other confidential commercial or private information, the disclosure of which would put J. Patrick Machine at a competitive disadvantage with its direct competitor Bayou Fabricators & Machine Works, Inc. Accordingly, the defendants maintain that the trial court's order is overreaching, unreasonable, and wholly unjustified.

To the contrary, the plaintiff asserts that the defendants' statutory arguments are inapposite to the issues currently before the Court, as they have stipulated on two occasions to produce the corporate records of J. Patrick Machine. The plaintiff therefore maintains that the defendants' stipulations are not subject to review.

Parties are bound by their stipulations regarding factual matters. **Cordon v. Parish Glass of St. Tammany, Inc.**, 15-1078 (La.App. 1 Cir. 4/15/16), 195 So.3d 109, 112, writ denied, 16-0896 (La. 9/6/16), 205 So.3d 918. A stipulation has the effect of a judicial admission or confession, which binds all parties and the court when it is not in derogation of law. **Id.** Such agreements are the law of the case. **Mill Creek Homeowners Ass'n, Inc. v. Manuel**, 04-1385 (La.App. 1 Cir. 6/10/05), 916 So.2d 268, 269.

The stipulated judgment, signed on August 11, 2015, provided that the defendants would provide the records of J. Patrick Marine "as requested by Plaintiffs in their Petition for Mandamus, and such other records as Plaintiffs' experts ... may request." That judgment was not appealed. Moreover, the transcript of the November 30, 2015 hearing clearly reflects the second stipulation and agreement of the parties:

[The Court]:                                      You have a stipulation.

[Plaintiff's Counsel]:                      ... I believe the stipulation will be as follows: Within 15 days the defendants will produce an unredacted version of the records that they have previously provided.

Secondly, they will additionally provide the same types of records from 2012 forward, including up to date in 2015 to the extent those records exist. **They will provide electronic files such as Quickbooks wherever those records are available.**

And I believe that's the extent of what we have discussed.

[The Court]: You're not going to hold [the defendants' counsel] in contempt?

[Plaintiff's Counsel]: No, sir.

[Defendants' counsel]: Your Honor, just for the record, the limitations on access to this information is [the plaintiff's counsel] and [the plaintiff's expert].

[Plaintiff's Counsel]: Yes, sir, Your Honor. It was my understanding that the Judge's previous order in this case is still, of course, in existence and does not go away by this stipulation.

(Emphasis added.)

Based on the defendants' admissions and stipulations, we need not address whether the plaintiff was statutorily entitled to said documents or whether they had previously satisfied the requirements of the writ of mandamus. The defendants agreed to produce the requested materials and "provide electronic files such as Quickbooks wherever those records are available." Accordingly, we cannot say that the trial court abused its great discretion in finding the defendants in contempt of court for their failure to produce same.

### **CONCLUSION**

Based on the foregoing, we affirm the August 19, 2016 judgment of the trial court in favor of the plaintiff, Ricky Patrick, by and through his agent, Glenn Patrick, finding the defendants in contempt of court. Costs of this appeal are assessed to the defendants, J. Patrick, Inc., Machine, Pump & Fabrication, Melisa Patrick, and Dale Patrick.

**AFFIRMED.**