

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

ESPLANADE, LLC

NO. 2017 CW 0531

VERSUS

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ADVANTAGE REALTY, INC., LING
LUI ZHENG AND ABC INSURANCE
COMPANY

JUL 10 2017

In Re: Advantage Realty, Inc. and Ling Lui Zheng, applying
for supervisory writs, 19th Judicial District Court,
Parish of East Baton Rouge, No. 635,672.

BEFORE: McDONALD, McCLENDON, AND WELCH, JJ.

WRIT NOT CONSIDERED. Applicants fail to provide proof that the Writ Application filed on April 17, 2017, was timely filed under Rule 4-3, Uniform Rules of Louisiana Courts of Appeal. Neither the notice of intent nor the return date order were attached to the writ application. Furthermore, Rule 4-3, Uniform Rules of Louisiana Courts of Appeal provides that the return date in civil cases shall not exceed 30 days from the date of notice as provided in Louisiana Code of Civil Procedure art. 1914. The rendition of an interlocutory judgment in open court constitutes notice to all parties; however, such interlocutory judgment must be reduced to writing if the court so orders, if a party requests the judgment to be reduced to writing within ten days of the rendition in open court, or if the court takes the matter under advisement. La. Code Civ. P. art. 1914(A) and (B). The written and signed judgment was included with the writ application, but the judgment issued on December 20, 2016 indicates that the trial court issued the interlocutory ruling in open court on December 5, 2016. The ruling in open court constitutes notice of the interlocutory ruling unless one of the provisions of La. Code Civ. P. art. 1914(B) are met. Without evidence of whether any of the provisions of La. Code Civ. P. art. 1914(B) are met and without the notice of intent and return date order, the writ application cannot be considered timely.

Applicants also failed to comply with Rule 4-5, Uniform Rules of Louisiana Courts of Appeal. Applicants did not include a copy of the petition nor did Applicants include the motion for summary judgment at issue in the writ application in violation of Rule 4-5 (C)(8), Uniform Rules of Louisiana Courts of Appeal. Applicants also failed to include copies of any memorandums in support or opposition to the motion for summary judgment nor did Applicants provide a statement that no opposing written document was filed in the trial court in violation of Rule 4-5 (C)(8), Uniform Rules of Louisiana Courts of Appeal. In order for this court to examine the trial court's ruling, it must be presented with the pleadings reviewed by the trial court. Further, Applicants did not include in the writ application a copy of the pertinent court minutes or the notice of intent and return date order in clear violation of Rule 4-5(C)(10) and (11), Uniform Rules of Louisiana Courts of Appeal.

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Supplementation of this writ application and/or an application for rehearing will not be considered. Uniform Rules of Louisiana Courts of Appeal, Rules 4-9 and 2-18.7.

In the event Applicants seek to file a new application with this court, it must contain all pertinent documentation, including documentation to show that the original writ application was timely and the missing items noted above, and must comply with Rules 2-12.2 of the Uniform Rules of Louisiana Courts of Appeal. Any new application must be filed on or before July 24, 2017 and must contain a copy of this ruling.

JMM
PMc
JEW

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT