

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

FIRST CONSUMERS FINANCIAL,
LLC

NO. 2018 CW 0795

VERSUS

JOSHUA HOLMES

OCT 17 2018

In Re: First Consumers Financial, LLC, applying for
supervisory writs, 21st Judicial District Court,
Parish of Livingston, No. 112573.

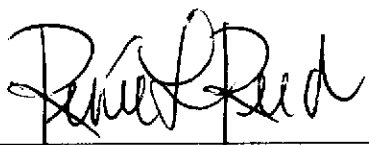
BEFORE: GUIDRY, PETTIGREW, McCLENDON, WELCH, AND CHUTZ, JJ.

WRIT DENIED. The district court is instructed to conduct a full, contradictory hearing on First Consumer Financial, LLC's Motion for Judgment Pro Confesso.

JEW
WRC
JTP
PMc

Guidry, J., dissents and would grant the writ application. A new trial must be granted when the verdict or judgment appears clearly contrary to the law and the evidence. La. Code Civ. P. art. 1972(1). If a garnishee fails to answer garnishment interrogatories within 15 days from service, the judgment creditor may proceed by contradictory motion against the garnishee for the amount of the unpaid judgment, with interest and costs. La. Code Civ. P. art. 2413(A). The failure of the garnishee to answer prior to the filing of such a contradictory motion is prima facie proof that he has property of or is indebted to the judgment debtor to the extent of the judgment, interest, and costs. **Id.** Judgment shall be rendered against the garnishee on trial of the motion unless he proves that he had no property of and was not indebted to the judgment debtor. La. Code Civ. P. art. 2413(B). At the contradictory hearing, Grabince International, Inc. did not introduce any evidence. Thus, Grabince International, Inc. failed to rebut First Consumers Financial, LLC's prima facie case. The district court therefore abused its discretion in granting Grabince International, Inc.'s Motion for New Trial.

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DEPUTY CLERK OF COURT
FOR THE COURT