

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

JOSEPH J. FALLO

NO. 2019 CW 0218

VERSUS

PHILLIP A. STANFORD, TEC
REALTORS, INC. D/B/A
COLDWELL BANKER TEC,
REALTORS, JA-ROY
EXTERMINATING SERVICES OF
ST. TAMMANY, L.L.C. AND
FAIRVIEW HOME INSPECTIONS,
L.L.C.

JUL 08 2019

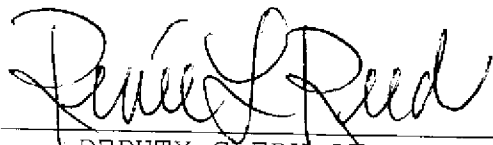
In Re: Joseph J. Fallo, applying for supervisory writs, 22nd
Judicial District Court, Parish of St. Tammany, No.
201812868.

BEFORE: HIGGINBOTHAM, THERIOT, AND HOLDRIDGE, JJ.

WRIT DENIED. Motions for new trial, which are provided in the Code of Civil Procedure, are applicable only to final, appealable judgments. See La. Code Civ. P. art. 1971, et seq.; **Allstate Ins. Co. v. Mohamadian**, 2009-1126 (La. App. 1st Cir. 2/17/10), 35 So.3d 1118. A judgment overruling an exception of prematurity based on an agreement to arbitrate is not appealable. See **Allen v. Valero Engery Corp.**, 2006-726 (La. App. 5th Cir. 1/9/07), 951 So.2d 370, 372 (citing La. Code Civ. P. art. 2083). However, the trial court properly considered the "Motion and Order for New Trial/Rehearing" filed by Ja-Roy Exterminating Services of St. Tammany, L.C.C. as a re-urged exception of prematurity. See La. Code Civ. P. art. 928; see also **Armand v. Lady of the Sea Gen. Hosp.**, 2011-1083 (La. App. 1st Cir. 12/21/11), 80 So.3d 1222, 1227, writ denied, 2012-0230 (La. 3/30/12), 85 So.3d 121. Pursuant to the parties' adoption of the AAA Rules in the subject Wood Destroying Insect Report, the arbitrability of the relator's claims will be determined by the arbitrator. See **Fla. Gas Transmission Co., LLC v. Texas Brine Co., LLC**, 2017-0304 (La. App. 1st Cir. 12/6/18), 267 So. 3d 633; see also **Jasper Contractors, Inc. v. E-Claim.com, LLC**, 2011-0978 (La. App. 1st Cir. 5/4/12), 94 So.3d 123.

TMH
MRT
GH

COURT OF APPEAL, FIRST CIRCUIT



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