

**NOT DESIGNATED FOR PUBLICATION**

**HUEY GONZALES, RALPH G.** \* **NO. 2008-CA-1066**  
**GONZALES, KATHY**  
**GONZALES AND THOMAS** \*  
**GONZALES** \* **COURT OF APPEAL**  
  
\*  
**VERSUS** \* **FOURTH CIRCUIT**  
  
\*  
**JAMES GONZALES AND** **STATE OF LOUISIANA**  
**PROGRESSIVE INSURANCE** \* \* \* \* \*  
**COMPANY**

**APPEAL FROM**  
**ST. BERNARD 34TH JUDICIAL DISTRICT COURT**  
**NO. 93-820, DIVISION "E"**  
**Honorable Jacques A. Sanborn, Judge**

\* \* \* \* \*

**Judge Dennis R. Bagneris, Sr.**

\* \* \* \* \*

(Court composed of Judge James F. McKay, III, Judge Dennis R. Bagneris, Sr.,  
and Judge Terri F. Love)

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**MARCH 4, 2009**

**APPEAL DISMISSED**

The Appellants, Huey Gonzales, Ralph Gonzales, and Kathy Gonzales as “plaintiffs in the original suit and defendants in reconvention” appeal the district court’s denial of their exception of prescription dated June 6, 2008.

An appeal lies only from a final judgment of the trial court. LSA-C.C.P. arts. 1911 and 2083. A judgment that determines the merits in whole or in part is a final judgment. LSA-C.C.P. art. 1841. Whether a partial final judgment is appealable is determined by examining the requirements of LSA-C.C.P. art. 1915. This Court’s jurisdiction must be properly invoked by a final appealable judgment. Thus, the issue is whether this is a final appealable judgment meeting the requisites of LSA-C.C.P. art. 1915.

In 1997, by Act No. 483, the Louisiana Legislature made significant changes with respect to the appealability of partial judgments. *In re Succession of Grimmett*, 31,975, p. 4 (La.App. 2 Cir. 3/5/99), 738 So.2d 27, 30. Prior to the 1997 amendments, article 1915 set forth exclusive classes of partial judgments, which were immediately appealable. *Id.* at pp. 2-4, 738 So.2d at 29-30. The 1997 amendments, patterned after Rule 54 of the Federal Rules of Civil Procedure, now require a certification procedure, which must be met before a partial adjudication can become immediately appealable. *Id.* A partial judgment rendered by a trial court shall not constitute a final judgment subject to an immediate appeal unless designated as a final judgment by the trial court after an express determination that there is no just reason for the delay, or unless specifically agreed to by the parties. LSA-C.C.P. art. 1915 B (1).

*LHO New Orleans LM, L.P. v. MHI Leasco New Orleans, Inc.* 2003-1283  
(La.App. 4 Cir. 3/3/04) 869 So.2d 304.

The judgment in which the appellants seek to appeal is a partial judgment that has not been designated as a final appealable judgment. Further, the appellants conceded that another appeal exists in this Court dealing with the merits of the case<sup>1</sup>.

**Decree**

For the reasons stated above the instant appeal is hereby dismissed.

**APPEAL DISMISSED**

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<sup>1</sup> Louisiana Fourth Circuit Court of Appeal case number 2008-CA-0258, in which this Court denied a Motion to Consolidate on September 16, 2008.