

RICHARD F. PRICE, JR., * **NO. 2008-CA-1184**
JOHN V. PRICE, LINDA P.
ELLZEY, JAMES M. FOSTER, * **COURT OF APPEAL**
ROBERT P. HOSFORD, * **FOURTH CIRCUIT**
KAREN R. HOSFORD, * **STATE OF LOUISIANA**
PATRICK R. NEVILLE, *
BARBARA H. WHEELER, *
JAMES FRIEDERICKSON, *
CRAIG SMITH, HAYDEE *
MARIE WATERS, WILLIAM *
A. WATERS, JR., MARY *
FRANCES WATERS HAND, * * * * *
CONSTANCE RAE
ANDERSON, AND JULIA
HEILE YOUMANS

VERSUS

**PIONEER NATURAL
RESOURCES USA, INC.**

BELSOME, J. CONCURS WITH REASONS.

I write separately to acknowledge that La. Code Civ. Proc. art. 1672 (C) mandates that when service is not made within ninety days, the action shall be dismissed *without* prejudice “unless good cause is shown why service could not be requested.”¹

In this case, Plaintiffs were explicitly warned in a written judgment that failure to accomplish service within ninety days of filing the Second Amended Petition would specifically result in a dismissal with prejudice. Moreover, the ninety day period after the filing of the First Amended Petition had elapsed, during which time Plaintiffs failed to accomplish or even request service on the additional named defendants. Considering the foregoing, dismissal with prejudice was appropriate under these particular facts and circumstances. Therefore, I respectfully concur.

¹ La. C.C.P. art. 1672(C) provides: A judgment dismissing an action without prejudice shall be rendered as to a person named as a defendant for whom service has not been requested within the time prescribed by Article 1201(C) upon the sustaining of a declinatory exception filed by such defendant, or upon contradictory motion of any other party, unless good cause is shown why service could not be requested, in which case the court may order that service be effected within a specified time.

