

\*\*\* NOT DESIGNATED FOR PUBLICATION \*\*\*

**IN RE: INTERMENT OF CLEO  
SATTER LOCICERO**

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**NO. 2012-CA-0806**  
  
**COURT OF APPEAL**  
  
**FOURTH CIRCUIT**  
  
**STATE OF LOUISIANA**

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APPEAL FROM  
CIVIL DISTRICT COURT, ORLEANS PARISH  
NO. 2004-01470, DIVISION "N-8"  
Honorable Ethel Simms Julien, Judge

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**PAUL A. BONIN**  
**JUDGE**

\* \* \* \* \*

(Court composed of Judge Edwin A. Lombard, Judge Roland L. Belsome, Judge Paul A. Bonin)

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**APPEAL DISMISSED WITHOUT PREJUDICE  
JUNE 12, 2013**

Ramona Hedrick sued her three sisters<sup>1</sup> for defamation. The trial judge granted the sisters' motion for a directed verdict, *see* La. C.C.P. art. 1810, and rendered judgment dismissing with prejudice Ms. Hedrick's lawsuit. Ms. Hedrick timely filed a devolutive appeal and claimed to have designated the record.<sup>2</sup> The record before us contains neither a transcript of the trial testimony nor an agreed-upon narrative of the facts. As we explain in greater detail below, because we find that Ms. Hedrick did not timely designate portions of the trial court record, in order for her to obtain appellate review, it is necessary that we dismiss her appeal without prejudice.

“[W]ithin three days, exclusive of holidays, after taking the appeal the appellant may designate in a writing filed with the trial court such portions of the record which he desires to constitute the record on appeal.” La. C.C.P. art. 2128.

“The appellant has the duty to secure either a transcript of the testimony or a

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<sup>1</sup> The defendant-sisters are Donna Webre, Ava Marks and Pam Melancon. The other defendants are the liability insurers, Allstate Insurance Company and State Farm Fire and Casualty Company.

<sup>2</sup> The appellate record does not contain the designation of record, but Ms. Hedrick in her brief references the portions of the record which she designated.

narrative of facts; and the inadequacy of the record, if any is imputable to the appellant.” *Olson v. Olson*, 04-1137, pp. 4-5 (La. App. 5 Cir. 3/1/05), 900 So. 2d 52, 54-55. “An appellate court is forbidden by the law and jurisprudence to consider evidence which is outside the record on appeal.” *Id.*, 04-0037, p. 5, 900 So. 2d at 55.

We gave Ms. Hedrick the opportunity to supplement the record with copies of any motions and orders to designate the record; however, she was unable to produce any such motion or order. Ms. Hedrick, therefore, has not shown that the record was timely designated in accordance with La. C.C.P. art. 2128.

From the record before us, Ms. Hedrick has not established that she is entitled to relief. Ms. Hedrick has not provided us with evidence that she timely objected to the district court’s now challenged rulings; and Ms. Hedrick has not made, as far as we are concerned for they do not appear in the record, proffers of what her excluded witnesses would have said had they been allowed to testify. Without offers of proof of the testimonies these witnesses would have given, we have no basis for determining whether the district court erred in excluding them. And without a transcript of the proceedings below, we cannot know whether the issue was properly preserved for review.

In light of the fact that there was no timely record designation, we find that the proper remedy is to dismiss this appeal without prejudice and afford the appellant, Ramona Hedrick, an additional twenty days from the finality of this judgment within which to pay the full estimated costs of the appeal so that the

clerk of the district court may prepare a *complete* record, including all pleadings and trial transcripts, of the proceedings below. *See Bonner v. Goldberg*, 11-0768, pp. 5-6 (La. App. 4 Cir. 11/2/11), 76 So. 3d 1284, 1287; *Armstrong ex rel. R.D. v. Johnson*, 11-1379, p. 9 (La. App. 4 Cir. 7/5/12), 97 So. 3d 548, 553. If Ms. Hedrick fails to timely pay the full estimated costs within the time specified, the trial court shall proceed under La. C.C.P. art. 2126 E.

**DECREE**

The instant appeal of Ramona Hedrick is hereby dismissed without prejudice.

**APPEAL DISMISSED WITHOUT PREJUDICE**