

NOT DESIGNATED FOR PUBLICATION

HARRY BATT, III	*	NO. 2015-CA-0828
VERSUS	*	
DR. KENNETH COHEN,	*	COURT OF APPEAL
GURTLER BROS.	*	FOURTH CIRCUIT
CONSULTANTS, INC. AND	*	
ASHLEY VAN DER MEULEN	*	STATE OF LOUISIANA

* * * * *

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2006-07806, DIVISION "M"
Honorable Paulette R. Irons, Judge
* * * * *

Judge Joy Cossich Lobrano
* * * * *

(Court composed of Judge Joy Cossich Lobrano, Judge Rosemary Ledet, Judge Sandra Cabrina Jenkins)

LEDET, J., CONCURS WITH REASONS

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APPEAL CONVERTED TO WRIT; WRIT DENIED

JANUARY 27, 2016

Dr. Harry Batt, III filed this matter as an appeal of the district court's May 28, 2015 judgment granting Gurtler Bros. Consultants, Inc.'s and Ashley Van Der Meulen's exception of no right of action and motion in limine. The judgment ruled only on the limited issue of Dr. Batt's ability to recover costs of repair/replacement of the Common Elements of Doctors Row, Houma Boulevard, a Condominium, Inc., but did not dismiss all of Dr. Batt's claims against Gurtler Bros. or Van Der Meulen. It is therefore not a final, appealable judgment pursuant to La. C.C.P. arts. 1915(B) and 2083, absent any designation as a final judgment by the district court; it is an interlocutory judgment.

Appeals erroneously taken on interlocutory judgments can be converted and reviewed as an application for supervisory writ, which we find appropriate in this matter. *See Ordoyne v. Ordoyne*, 2007–0235 (La. App. 4 Cir. 4/2/08), 982 So.2d 899; *Ganier v. Inglewood Homes, Inc.*, 2006–0642 (La. App. 4 Cir. 11/8/06), 944 So.2d 753; Rule 4-3, Uniform Rules—Courts of Appeal. This Court may do so only when, as here, the motion for appeal has been filed within the thirty-day time

period allowed for the filing of an application for supervisory writs under Rule 4-3 of the Uniform Rules—Courts of Appeal.

We thus exercise our discretion and convert the instant appeal of the May 28, 2015 judgment to an application for supervisory writ.

The writ application is denied.

APPEAL CONVERTED TO WRIT; WRIT DENIED