

REGINALD GREEN, ET AL

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NO. 2017-C-0695

VERSUS

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COURT OF APPEAL

**FRANKLIN ELIEZER
GARCIA-VICTOR, ET AL**

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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LOBRANO, J., CONCURS AND ASSIGNS REASONS.

I respectfully concur in the result of the majority opinion that denies the writ of the defendants.

In *Cupit v. City of New Orleans ex rel Bd. of Zoning Adjustments*, 12-1708, p. 3 (La.App. 4 Cir. 7/17/13), 120 So.3d 862, 864, we stated:

The exception of no cause of action determines whether, based on the facts alleged in the four corners of the petition, the law affords the plaintiff a remedy. The court accepts the allegations of the petition as true, and decides whether the plaintiff is legally entitled to the relief claimed in the petition. *See Everything on Wheels Subaru, Inc. v. Subaru South, Inc.*, 616 So.2d 1234, 1235 (La.1993).

Turning to the petition at issue, the plaintiffs allege that the Uber drivers have violated various city ordinances that prohibit the Uber drivers from operating outside the limitations placed on them, *e.g.*, accepting cash fares, using cab stands to obtain customers, and illegally providing transportation services for hire.

“LUTPA grants a right of action to any person, natural or juridical, who suffers an ascertainable loss as a result of another person's use of unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” *Cheremie Services, Inc. v. Shell Deepwater Production, Inc.*, 09-1633, p. 6 (La.4/23/10), 35 So.3d 1053, 1057. I disagree with the dissent opinion that the Uber drivers’ alleged violation of local ordinances “cannot support an unfair

competition claim” and that the ordinances relied upon to support the plaintiffs’ “claims under LUTPA do not provide for causes of actions by private persons.” The allegations that these city ordinances were violated would, by definition, constitute an unfair or deceptive practice.

The plaintiffs are not required to prove their case to survive a peremptory exception of no cause of action. For these reasons, I concur in the result of the majority upholding the trial court’s denial of the exception of no cause of action.