

DENISE T. REED * NO. 2018-CA-0078
 VERSUS * COURT OF APPEAL
 WESLEY E. HAWLEY * FOURTH CIRCUIT
 * STATE OF LOUISIANA
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LOMBARD, J., DISSENTS WITH REASONS,

Before addressing the merits of a case, it is the duty of appellate courts to determine, *sua sponte*, whether subject matter jurisdiction exists, even when the parties do not raise the issue. *Moon v. City of New Orleans*, 2015–1092, 2015-1093, p. 5 (La. App. 4 Cir. 3/16/16), 190 So.3d 422, 425. ¹

La. Code Civ. Proc. art. 1918 provides that “[a] final judgment shall be identified as such by appropriate language.” This means that to be a valid final judgment, the language “must be precise, definite and certain.” *Bd of Supervisors of La. State Univ. & Mech. College v. Mid-City Holdings, L.L.C.*, 14-0506, p. 2 (La. App. 4 Cir. 10/15/14); 151 So.3d 908, 910) (citations omitted). In other words, “the specific relief granted should be *determinable from the judgment without reference to an extrinsic source such as pleadings* or reasons for judgment.” *Id.*² In addition to naming the parties and whether relief is granted or

¹ See also *Neighbors First for Bywater, Inc. v. City of New Orleans/ New Orleans City Council*, 17-0256, p. 4 (La. App. 4 Cir. 12/13/17), — So.3d —, —, 2017 WL 6350339 at 9 (citation omitted) (appellate courts have a duty, at the outset, of determining, *sua sponte*, whether a case is properly before it and whether subject matter jurisdiction exists); *Taylor v. Cajun Constructors, Inc.* 2018-237 (La. App. 3 Cir. 5/2/18), ___ So. 3d ___, 2018 WL 2035040 (the merits of an appeal cannot be determined unless an appellate court’s jurisdiction is properly invoked by a valid final judgment).

² See also *Baker Ready Mix, LLC v. Crown Roofing Servs., Inc.*, 15-0565, p. 2, n. 1 (La. App. 4 Cir. 12/16/15), 183 So.3d 622, 623 (citing *Bd. of Supervisors of La. State Univ. and Agric. and Mech. Coll. v. Mid City Holdings, L.L.C.*, 14-0506, p. 3 (La. App. 4 Cir. 10/15/14), 151 So.3d 908, 910) (In addition to requiring that a judgment be precise, definite, and certain, jurisprudence

denied, a final appealable judgment must contain decretal language. *Palumbo v. Shapiro*, 11–0769, p. 5 (La. App. 4 Cir. 12/14/11); 81 So.3d 923, 927 (quoting *Input/Output Marine Sys., Inc. v. Wilson Greatbatch Tech., Inc.* 10–477, p. 13 (La. App. 5 Cir. 10/29/10); ; 52 So.3d 909, 916). “The specific relief granted should be determinable from the judgment without reference to an extrinsic source such as pleadings or reasons for judgment.” *Input/Output Marine*, 10–477, p. 13; 52 So.3d at 916; *see also Wells One Investments, LLC v. City of New Orleans*, 17-0415, p. 2 (La. App. 4 Cir. 11/2/17), 231 So.3d 54, —, 2017 WL 4988660 (“the decree dictates the decision, and it must be spelled out in lucid, unmistakable language”).

An appeal may be dismissed for lack of jurisdiction. La. Code Civ. Proc. art. 2162. “A judgment is the determination of the rights of the parties in an action and may award any relief to which the parties are entitled.” La. Code Civ. Proc. art. 1841.

On July 11, 2017, the trial court signed the following judgment:

JUDGMENT

After a bench trial held in open court on June 19-20, 2017, and considering the pleadings, testimony and evidence at trial:

Present for the plaintiff were Gerald J. Calogero (LABA 26228) and Jennifer A. Casey (LSBA 25611, 825 Baronne Street, New Orleans, Louisiana 70113);

IT IS ORDERED, ADJUDGED AND DECREED, THAT defendant’s peremptory Exception of No Cause of Action for Attorney’s Fees is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there be judgment in favor of the defendant, Wesley E. Hawley, and against plaintiff, Denise T. Reed, on all claims presented in plaintiff’s original Petition and First Supplemental and Amending Petition.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that there be judgment in favor of the defendant-in reconvention, Denise T. Reed, and against plaintiff-in-reconvention, Wesley E. Hawley, on

requires a that a valid final judgment be self-contained, *i.e.*, without reference to an extrinsic source).

all claims presented in plaintiff-in reconvension's Reconvension Demand.

IT IS FURTHER ORDER [sic], ADJUDGED AND DECREED, that each party bear their own costs.

Notably absent in the judgment in this case is definitive decretal language. Nothing indicates that it is a final judgment or that the claims are dismissed with prejudice. Rather, the relief granted (dismissal of all claims in the plaintiff's petitions) is generic rather than precise, requiring reference to extrinsic sources: both the pleadings *and* the joint pre-trial memoranda which stipulated the dismissal of some of the claims before trial. Accordingly, because the judgment in this case lacks the clear language indicating it is a final judgment necessary for the exercise of our appellate jurisdiction, the appellant is not entitled as of right to appellate review. Additionally, the motion for appeal was not filed within the thirty-day period allowed for the filing of applications for supervisory writs and, therefore, it is not within our discretionary authority to convert the appeal to an application for supervisory writ.³

Because this court lacks jurisdiction to consider the merits of the plaintiff's appeal without a final judgment, the appeal should be dismissed without prejudice and remanded back to the trial court for an entry of final judgment. Accordingly, I respectfully dissent.

³ The plaintiff's motion for a new trial was denied in a judgment signed on October 26, 2017, and the notice of signing judgment was issued on October 30, 2017. The plaintiff did not file a motion for a devolutive appeal until November 30, 2017, more than thirty days after the trial court issued the notice for judgment and, accordingly, not within the time period for filing an application for supervisory writ.