

ANTOINETTE WASHINGTON * NO. 2019-CA-0924
VERSUS *
BRIAN TAYLOR, ELKHART * COURT OF APPEAL
CORPORATE CLEANING * FOURTH CIRCUIT
SERVICE, INC., AND *
MOTORISTS MUTUAL STATE OF LOUISIANA
INSURANCE COMPANY * * * * *

CONSOLIDATED WITH:

STEPHANIE MYLES AND
TAQUILLA WHITE

VERSUS

BRIAN TAYLOR, ELKHART
CLEANING SERVICE,
MOTORISTS MUTUAL
INSURANCE COMPANY, STATE
FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY

CONSOLIDATED WITH:

NO. 2019-CA-0925

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2015-04213, DIVISION "J"
Honorable D. Nicole Sheppard,
* * * * *

JUDGE SANDRA CABRINA JENKINS
* * * * *

(Court composed of Judge Edwin A. Lombard, Judge Sandra Cabrina Jenkins,
Judge Regina Bartholomew-Woods)

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**APPEAL DISMISSED
JUNE 17, 2020**

SCJ
EAL
RBW

This appeal arises from a motor vehicle accident that occurred on March 3, 2015 at the intersection of Jackson Avenue and Rousseau Street in New Orleans. Plaintiff/Appellant Antoinette Washington was the driver of a car in which Stephanie Myles and Taquilla White were guest passengers. Defendant/Appellee Brian Taylor was the driver of the truck and trailer which collided with Ms. Washington's vehicle.

In 2015, Ms. Washington filed suit against Mr. Taylor, his employer, Eckert Cleaning Service Inc. ("Eckert"); and their insurers, Motorists Mutual Insurance Company and State Farm Mutual Automobile Insurance Company (collectively "Insurers"). In February 2016, Ms. Myles and Ms. White filed a separate lawsuit against these same defendants. On April 11, 2016, the two lawsuits were consolidated for trial.

On April 5, 2018, the trial court conducted a one-day bench trial in the consolidated cases. On April 10, 2018, the trial court signed a judgment against

Ms. Washington, Ms. Myles, and Ms. White and in favor of Appellees, dismissing all claims, with prejudice. On April 19, 2018, the trial court signed an amended judgment which added State Farm as a dismissed defendant.

On April 19, 2018, Ms. Myles and Ms. White timely filed a Motion for New Trial, which was set for hearing on February 9, 2019. Ms. Washington, however, did not file a Motion for New Trial. On May 31, 2019, the trial court signed a judgment granting Ms. Myles a new trial and denying Ms. White a new trial.

Not only did Ms. Washington not file a Motion for New Trial, she also did not file a Notice of Appeal until July 21, 2019, more than fifteen months after the April 19, 2018 amended judgment dismissing all defendants. Under La. C.C.P. art. 2087, a devolutive appeal must be taken within sixty days of the appealable judgment when no motion for new trial has been filed. *Franks v. W. Jefferson Med. Ctr.*, 97-179, p. 3 (La. App. 5 Cir. 4/29/97), 694 So.2d 1089, 1090. The Motion and Order for Devolutive Appeal filed by Ms. Washington on July 21, 2019 was filed well past the sixty -day limit. We have found no jurisprudence holding that the filing of a Motion for New Trial in one consolidated case tolls the time period for appealing in a separate case. Consequently Ms. Washington's appeal is untimely and is hereby dismissed.

APPEAL DISMISSED