

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

11-468

**ASHLEY CARRUTH FOWLER
VERSUS
RICHARD TISON AND MARIE TISON**

**APPEAL FROM THE
NINTH JUDICIAL DISTRICT COURT
PARISH OF RAPIDES, NO. 238,707
HONORABLE MARY LAUVE DOGGETT, DISTRICT JUDGE**

**J. DAVID PAINTER
JUDGE**

Court composed of John D. Saunders, J. David Painter, and Phyllis M. Keaty,
Judges.

APPEAL DISMISSED.

**Douglas Lee Bryan
The Bryan Law Firm, LLC
Post Office Box 707
Marksville, La 71351-0707
(318) 240-8282
COUNSEL FOR DEFENDANTS/APPELLANTS:
Richard Tison
Marie Tison**

**Susan Ford Fiser
Attorney at Law
Post Office Box 12424
Alexandria, LA 71315-2424
(318) 442-8899
COUNSEL FOR PLAINTIFF/APPELLEE:
Ashley Carruth Fowler**

PAINTER, Judge.

This court, on its own motion, issued a rule for the appellants, Richard and Marie Tison, to show cause, by brief only, why the appeal should not be dismissed as premature. For the reasons which follow, we dismiss the appeal.

After entry of a final judgment in this matter, the Tisons filed a motion for new trial. Attached to this motion was an order for the trial court to set a date for a rule for the appellee, Ashley Fowler, to show cause why the motion for new trial should not be granted. Handwritten over the typed order is the word, "Denied," and this order was dated and signed by the trial court.

As stated above, this court issued a rule for the appellants to show cause why this appeal should not be dismissed as premature. In *Egle v. Egle*, 05-531 (La.App. 3 Cir. 2/8/06), 923 So.2d 780, this court held when a trial court denies an order to set a motion for new trial for contradictory hearing, the trial court is not issuing a ruling on the merits of the motion for new trial and that an appeal taken prior to a ruling on the motion for new trial is premature.

In response to the rule to show cause issued by this court, the appellants filed a brief informing this court that they have now submitted two alternative orders for the trial court to sign, one setting the motion for new trial for a contradictory hearing and one clearly denying the motion for new trial. Since this court has not been presented with an order clearly ruling on the merits of the motion for new trial, we hereby dismiss this appeal as premature at appellants' cost.

APPEAL DISMISSED.

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.

Rule 2-16.3 Uniform Rules, Court of Appeal.