

**NOT DESIGNATED FOR PUBLICATION**

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

**CA 11-921**

**BEVERLY A. LEBOUF**

**VERSUS**

**DR. JOSEPH O'DONNELL, ET AL.**

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**APPEAL FROM THE  
FOURTEENTH JUDICIAL DISTRICT COURT  
PARISH OF CALCASIEU, NO. 2008-3946  
HONORABLE CLAYTON DAVIS, DISTRICT JUDGE**

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**MARC T. AMY**

**JUDGE**

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Court composed of Sylvia R. Cooks, Jimmie C. Peters, and Marc T. Amy, Judges.

**REMANDED.**

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**AMY, Judge.**

The defendant-appellant, Dr. Joseph O'Donnell, has filed a peremptory exception of prescription in this court. The plaintiff-appellee, Beverly LeBouef, has filed a Motion for Remand on Defendant's Peremptory Exception of Prescription. We hereby remand this appeal.

Louisiana Code of Civil Procedure Article 2163 states:

The appellate court may consider the peremptory exception filed for the first time in that court, if pleaded prior to a submission of the case for a decision, and if proof of the ground of the exception appears of record.

If the ground for the peremptory exception pleaded in the appellate court is prescription, the plaintiff may demand that the case be remanded to the trial court for trial of the exception.

Pursuant to the second paragraph of Article 2163, the plaintiff has demanded that this case be remanded to the trial court for a trial of the exception of prescription. Therefore, we hereby remand this matter to the trial court for an adjudication of the exception of prescription.

**REMANDED.**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.  
Rule 2-16.3 Uniform Rules, Court of Appeal.