

**NOT DESIGNATED FOR PUBLICATION**

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

**CA 15-844**

**LEONARD BOB, JR.**

**VERSUS**

**KASEY ADDISON, ET AL.**

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**APPEAL FROM THE  
FIFTEENTH JUDICIAL DISTRICT COURT  
PARISH OF LAFAYETTE, NO. C-20150321  
HONORABLE EDWARD B. BROUSSARD, DISTRICT JUDGE**

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**SYLVIA R. COOKS**

**JUDGE**

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Court composed of Judges Sylvia R. Cooks, Billy H. Ezell, and John E. Conery.

**APPEAL DISMISSED; CASE REMANDED.**

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**COOKS, Judge.**

After the lodging of the record in this appeal, on September 9, 2015, this court issued a rule for the plaintiff/appellant, Leonard Bob, Jr., to show cause, by brief only, why his appeal should not be dismissed as premature, citing this court's ruling in *Egle v. Egle*, 05-531 (La.App. 3 Cir. 2/8/06), 923 So.2d 780. Appellant has filed a brief in response to this court's rule, and the defendants/appellees, Zurich American Insurance Company and Nine Energy Services, Inc., has filed a response to the appellant's brief. For the reasons given below, we dismiss this appeal without prejudice.

The trial court entered judgment dismissing the appellant's suit on an exception of prescription. Appellant then timely filed a motion for new trial. Submitted with the motion for new trial was a proposed order to set the new trial for hearing. The trial court drew slash marks across the order language and wrote the word "Denied" across the proposed order. Appellant filed a Notice for Appeal, and the trial court signed the order of appeal.

As stated above, this court issued a rule for the appellant to show cause why the appeal should not be dismissed as premature, citing *Egle*, 923 So.2d 780. In the appellant's brief submitted in response to this court's rule, the appellant argues that the trial court erred in denying the motion for new trial without conducting a contradictory hearing. We do not reach this issue. Instead, we find that the facts of this case are substantially identical to those presented in *Egle*. In that case, this court ruled that the writing of the word "denied" across a proposed order to set the subject motion for hearing is not a denial of the motion itself. Thus, this court held that the appeal in *Egle* was filed prematurely in violation of La.Code Civ.P. arts. 2087(D) and 2123(C) because not all post-judgment motions had been properly

decided in a hearing or through an appropriate judgment. For these same reasons, we find that the appeal in the instant case is likewise premature and must be dismissed, without prejudice. We remand this case to the trial court for proper disposition of the motion for new trial filed by Leonard Bob, Jr.

**APPEAL DISMISSED; CASE REMANDED.**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION.

Rule 2-16.3 Uniform Rules, Court of Appeal.