

NOT DESIGNATED FOR PUBLICATION

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

CA 18-761

SPENCER BERNARD

VERSUS

GLENN LEGE CONSTRUCTION, INC., ET AL.

**APPEAL FROM THE
TWELFTH JUDICIAL DISTRICT COURT
PARISH OF AVOYELLES, NO. 2015-1904-A
HONORABLE KERRY LYNDON SPRUILL, DISTRICT JUDGE**

JOHN E. CONERY

JUDGE

Court composed of Billy H. Ezell, John E. Conery, and Van H. Kyzar, Judges.

APPEAL DISMISSED.

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Spencer Bernard

CONERY, Judge.

This court, on its own motion, issued a rule to the Defendant-Appellant, Glenn Lege Construction, Inc., to show cause why the appeal in the above captioned case should not be dismissed as having been taken from a non-appealable, interlocutory judgment. For the reasons that follow, we dismiss the appeal.

The Plaintiff-Appellee, Spencer Bernard, filed suit against the Appellant, Old Republic General Insurance Corporation, Dautat Metal Recycling, L.L.C., and Kent Dautat, for injuries sustained when he was hit in the face with a piece of a tree. In response to the suit, the Appellant filed an exception of no right of action, claiming that the Appellant was the Plaintiff's statutory employer and that, therefore, the Plaintiff's sole remedy was to seek workers' compensation benefits from his direct employer. Following a hearing on the matter, the trial court denied the exception.

The ruling at issue, the denial of an exception of no right of action, is a non-appealable, interlocutory ruling, as it involves a preliminary matter and does not determine the merits of a case in whole or in part. *See* La.Code Civ.P. art. 1841; La.Code. Civ.P. art. 2083(C). Furthermore, the exact matter is pending before this court on supervisory writ, docket number 18-580. Accordingly, we hereby dismiss the instant appeal without prejudice at the Appellant's cost.

APPEAL DISMISSED.

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