

The Supreme Court of the State of Louisiana

DODSON & HOOKS, APLC

No.2020-C-01002

VS.

**THE LOUISIANA COMMUNITY
DEVELOPMENT CAPITAL FUND, INC.
"CAPFUND"**

C/W

**THE LOUISIANA COMMUNITY
DEVELOPMENT CAPITAL FUND, INC.
(CAPFUND)**

VS.

DODSON & HOOKS, APLC

IN RE: Dodson & Hooks, APLC - Applicant Other; Applying for Rehearing, Parish of East Baton Rouge, 19th Judicial District Court Number(s) C642674 C/W C-652-673, 1st Circuit Court of Appeal, Number(s) 2018 CA 1784 C/W 2018 CA 1785;

February 17, 2021

Application for rehearing granted. See per curiam.

SJC

JTG

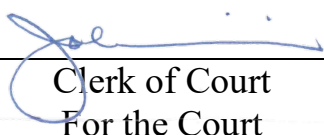
WJC

JBM

PDG

Weimer, C.J., would grant and docket.
Hughes, J., would grant and docket.

Supreme Court of Louisiana
February 17, 2021


Clerk of Court
For the Court

02/17/21

SUPREME COURT OF LOUISIANA

NO. 2020-C-1002

DODSON & HOOKS, APLC

V.

THE LOUISIANA COMMUNITY DEVELOPMENT CAPITAL FUND, INC.
"CAPFUND"

c/w

THE LOUISIANA COMMUNITY DEVELOPMENT CAPITAL FUND, INC.
(CAPFUND)

V.

DODSON & HOOKS, APLC

ON REHEARING

PER CURIAM

We grant rehearing for the sole purpose of clarifying our original disposition in this matter.

In deciding an exception of no cause of action, we are guided by the well-settled principle that the function of an exception of no cause of action is to test the legal sufficiency of the petition by determining whether the law affords a remedy on the facts alleged in the pleading. *Darville v. Texaco, Inc.*, 447 So.2d 473 (La. 1984). No evidence may be introduced to support or controvert the objection that the petition fails to state a cause of action. La. Code Civ.Proc. art. 931. Therefore, the court reviews the petition and accepts well pleaded allegations of fact as true, and the issue at the trial of the exception is whether, on the face of the petition, the plaintiff is legally entitled to the relief sought. *Everything on Wheels Subaru, Inc. v. Subaru South, Inc.*, 616 So.2d 1234, 1235 (La. 1993).

In the case at bar, plaintiff's petition and amended petition essentially alleged Dodson & Hooks did not earn any fees, was not entitled to file a lien for unearned fees, and failed to remove the wrongfully filed and recorded lien. Accepting these facts as true for the purpose of the exception of no cause of action, we concluded plaintiff stated a cause of action in tort based on allegations Dodson & Hooks caused damage to plaintiff by wrongfully filing a lien in a case in which it had not earned any attorney fees.¹

In reaching this conclusion, we emphasize we are not expressing any opinion on the merits. Rather, our holding simply stands for the proposition that based on the liberal standard for deciding an exception of no cause of action, we find plaintiff has alleged sufficient facts to state a cause of action. If Dodson & Hooks believes plaintiff is unable to establish these facts, it has other procedural remedies available, such as filing a properly-supported motion for summary judgment.

Accordingly, we grant rehearing and affirm our original decree which vacated the judgment dismissing plaintiff's suit and remanded the case to the district court for further proceedings.

¹ Our original disposition made reference to the abuse of rights doctrine. This discussion was not essential to our holding that plaintiff stated a cause of action in tort. Nothing in our earlier disposition should be read as expanding the abuse of rights doctrine.