

The Supreme Court of the State of Louisiana

**LOLA MARVENE MAHER, WIFE OF/AND  
JOHNY (NMI) MAHER**

No. 2024-C-00289

**VS.**

**NEW ORLEANS CITY PARK AND/OR  
NEW ORLEANS CITY PARK  
IMPROVEMENT ASSOCIATION; AND  
THE STATE OF LOUISIANA EX REL.  
DEPARTMENT OF CULTURE,  
RECREATION, AND TOURISM**

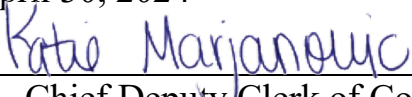
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IN RE: State of Louisiana, through the Department of Culture, Recreation and  
Tourism, on behalf of the New Orleans City Park Improvement Association -  
Applicant Defendant; Applying For Writ Of Certiorari, Parish of Orleans Civil,  
Orleans Civil District Court Number(s) 2016-12412, Court of Appeal, Fourth  
Circuit, Number(s) 2023-CA-0416;  
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**April 30, 2024**

Writ application granted in part. See per curiam.

JBM  
JLW  
JDH  
SJC  
JTG  
WJC  
PDG

Supreme Court of Louisiana  
April 30, 2024

  
\_\_\_\_\_  
Chief Deputy Clerk of Court  
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-C-00289

LOLA MARVENE MAHER, WIFE OF/AND JOHNY (NMI) MAHER

VS.

NEW ORLEANS CITY PARK AND/OR NEW ORLEANS CITY PARK  
IMPROVEMENT ASSOCIATION; AND THE STATE OF LOUISIANA EX  
REL. DEPARTMENT OF CULTURE, RECREATION, AND TOURISM

On Writ of Certiorari to the Court of Appeal, Fourth Circuit, Parish of Orleans  
Civil

PER CURIAM

Writ granted in part. The State, through the Department of Culture, Recreation and Tourism (“DCRT”), argued two bases for its summary judgment motion: 1) it is immune from liability under La. R.S. 9:2795, the Recreational Use Statute; and 2) plaintiffs cannot meet their burden of proving actual or constructive notice under La. R.S. 9:2800, the statute pertaining to limitation of liability for public bodies. The lower courts only addressed the first ground. Therefore, the writ is granted for the sole purpose of amending the court of appeal judgment to remand the case to the district court with instructions to address whether DCRT has demonstrated that plaintiffs cannot meet their burden of proving it had actual or constructive notice of the alleged defective catch basin prior to Lola Maher’s fall, had a reasonable opportunity to remedy the defect and had failed to do so. See La. R.S. 9:2800; La. C.C.P. art. 966(D)(1). In all other respects, the writ is denied.

AMENDED AND REMANDED