

The Supreme Court of the State of Louisiana

GREGORY CHANK

No. 2024-C-01544

VS.

STARR INDEMNITY & LIABILITY
INSURANCE COMPANY, ET AL.

IN RE: State of Louisiana through the Department of Transportation & Development
- Applicant Defendant; Applying For Writ Of Certiorari, Parish of St. Landry, 27th
Judicial District Court Number(s) 19-C-0608-B, Court of Appeal, Third Circuit,
Number(s) CA 24-20;

April 01, 2025

Writ application granted. See per curiam.

JDH
JLW
WJC
JBM
PDG
CRC

Guidry, J., concurs and assigns reasons.

Supreme Court of Louisiana
April 01, 2025

Katio Marjanovic
Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-C-01544

c/w

No. 2024-C-01552

GREGORY CHANK

VS.

STARR INDEMNITY & LIABILITY INSURANCE COMPANY, ET AL.

On Writ of Certiorari to the Court of Appeal, Third Circuit, Parish of St. Landry

PER CURIAM

Writs granted. Pursuant to LSA-C.C.P. art. 966(D)(1), the burden on the party moving for summary judgment “does not require him to negate all essential elements of the adverse party's claim, action, or defense, but rather to point out to the court the absence of factual support for one or more elements essential to the adverse party's claim, action, or defense.” When a motion for summary judgment is made and supported, an adverse party may not rest on the mere allegations or denials of his pleadings, but his response, by affidavits or otherwise, must set forth specific facts showing that there is a genuine issue for trial. LSA-C.C.P. art. 967(B). Once a motion for summary judgment has been properly supported by the moving party, the failure of the non-moving party to produce evidence of a material factual dispute mandates the granting of the motion.

Despite the mandates above, the court of appeal erroneously found that, “[a]s the movers, it was DOTD's and Stripe-A-Zone's burden to establish that proper signage was in place at the location of the accident.” To the contrary, and pursuant to LSA-C.C.P. art. 966(D)(1), applicants were merely required to point out an absence of evidence sufficient to establish one or more elements of the adverse party's claim, action, or defense. We do not find the application of LSA-R.S.

32:235(E) to be the salient issue here. While the defense may not have established its applicability, it does not matter because the plaintiff did not put forward competent summary judgment evidence to show a material issue of fact concerning the liability of these defendants.

Applicants alleged an absence of factual support to establish that the road work or traffic controls were somehow inadequate, improperly placed, or played any part in causing the accident. The burden then shifted to respondent to produce factual support sufficient to establish the existence of a genuine issue of material fact that the road work or signage was inadequate or improperly placed such that it created an unreasonable risk of harm that was known or should have been known by applicants, as well as factual support sufficient to establish the existence of a genuine issue of material fact that the alleged defect that resulted from the road work or inadequate or improperly placed signage was the cause-in-fact of plaintiff's injuries. There was no evidence presented sufficient to establish the existence of a genuine issue of material fact in this case. The court of appeal therefore erred in vacating the judgment of the district court and rendering judgment denying applicants' motions. As such, the judgment of the court of appeal is vacated and the district court's judgment, wherein applicants' motions for summary judgment were granted, is reinstated.

**WRITS GRANTED; JUDGMENT OF APPELLATE COURT VACATED;
JUDGMENT OF THE DISTRICT COURT REINSTATED.**