

The Supreme Court of the State of Louisiana

AMANDA CORBAJAL, INDIVIDUALLY, AND
ON BEHALF OF JAMESON MORGAN

No. 2024-CC-00191

VS.

THE CHRIS OWENS FRENCH QUARTER
PARADE, LLC, CHRIS OWENS, INC.,
CHRISTINA OWENS, NEW ORLEANS
CONVENTION CO., INC., ATAIN
INSURANCE COMPANY, JOHN DOE, AND
ABC INSURANCE COMPANY

IN RE: New Orleans Convention Co., Inc. - Applicant Defendant; Applying For
Supervisory Writ, Parish of Orleans Civil, Orleans Civil District Court Number(s)
2020-02483, Court of Appeal, Fourth Circuit, Number(s) 2023-C-0800;

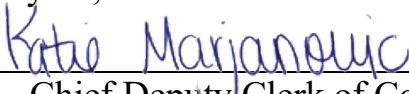
May 21, 2024

Writ application granted. See per curiam.

JLW
JDH
SJC
JTG
WJC
JBM

Griffin, J., dissents and would deny.

Supreme Court of Louisiana
May 21, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

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VS.

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OWENS, INC., CHRISTINA OWENS, NEW ORLEANS CONVENTION
CO., INC., ATAIN INSURANCE COMPANY, JOHN DOE, AND ABC
INSURANCE COMPANY

On Supervisory Writ to the Orleans Civil District Court, Parish of Orleans Civil

PER CURIAM

We ordered briefing in this matter to determine whether relator is entitled to summary judgment on the ground plaintiff is unable to establish that any action or inaction by relator caused the injury to plaintiff’s minor child. For the reasons that follow, we conclude summary judgment is warranted.

FACTS AND PROCEDURAL HISTORY

This matter arises from an incident which occurred during the 2019 Chris Owens French Quarter Easter Parade. Jameson Morgan, a minor child, was riding on one of the floats with his grandmother. During the parade, the float on which Jameson was riding hit a tree limb, causing a wooden piece of the float to break off and strike him.

As a result, plaintiff, individually and on behalf of her minor child, filed the instant suit against several defendants, including New Orleans Convention Co., Inc. (“NOCCI”). Plaintiff claims defendants were liable for: (1) failure to properly inspect the float; (2) failure to properly assess float clearance; (3) failure to warn; (4) failure to assure that the truck operator was competent; (5) failure to avoid a

dangerous situation; (6) negligent injury; (7) failure to keep the minor child safe; and (8) other unspecified acts of negligence.

NOCCI filed a motion for summary judgment, asserting plaintiff could not meet her burden of proof of showing that NOCCI was negligent. In support of its motion, NOCCI relied on affidavit of Dottie Belletto, president and CEO for NOCCI. Ms. Belletto attested the parade was under the care, custody, and control of The Chris Owens French Quarter Easter Parade, LLC and its manager/registered agent, Kitsy Adams. Furthermore, she stated NOCCI had no role in the planning, preparation, and hiring of employees, nor the care, custody, or control of the parade at the time of the alleged incident. Finally, Ms. Belletto stated NOCCI played no role in the formulation for the parade route, nor did it have any role or duty for inspection of the route, and it had no relationship with the drivers of the floats.

NOCCI also relied on a deposition from Ms. Adams, who testified that McKinley Cantrell of Cantrell Floats was responsible for inspecting the route to ensure the floats could safely pass. In this instance, however, the parade route was changed while in progress because cars were blocking the roadways. As a result, the New Orleans Police Department, in consultation with Ms. Adams, decided to change the route to travel down Esplanade Avenue as a detour. This incident occurred on Esplanade Avenue due to the low-hanging limbs of oak trees that line the avenue. Ms. Adams also testified that NOCCI had no input into the original route of the parade, nor did it have any input with the police regarding the last-minute change to the route.

Plaintiff opposed the motion for summary judgment, contending genuine issues of material fact exist regarding Ms. Bellatto's involvement with planning the parade with Ms. Adams. According to plaintiff, Ms. Bellatto and Ms. Adams are longtime colleagues and worked together in the planning of this parade.

Additionally, Ms. Bellatto secured an insurance policy that covered NOCCI for the parade and she participated in obtaining the permit for the parade.

After a hearing, the district court denied the motion for summary judgment. In oral reasons for judgment, the court found there were “multiple genuine issues of material fact” and cited NOCCI’s “historical role” in collaborating with others to conduct the parade.

NOCCI sought supervisory review of the district court’s judgment. The court of appeal denied the writ.

Upon NOCCI’s application to this court, we ordered written briefing pursuant to the provisions of La. Code Civ. P. art. 966(H). Having received briefs from both parties, we now review the district court's ruling on the motion for summary judgment on the merits.¹

DISCUSSION

A ruling on a motion for summary judgment is reviewed under a de novo standard, with the appellate court using the same criteria that govern the district court's determination of whether summary judgment is appropriate, i.e., whether there is any genuine issue of material fact, and whether the movant is entitled to judgment as a matter of law. *Diaz-Molina v. Flower*, 2023-01135 (La. 12/19/23), 374 So. 3d 950, 952; *Catzen v. Toney*, 2022-01261 (La. 1/18/23), 352 So. 3d 972, 974; *Jones v. Whips Elec., LLC*, 2022-01035 (La. 11/22/22), 350 So. 3d 846, 848; *Guidry v. Brookshire Grocery Co.*, 2019-1999 (La. 2/26/20), 289 So. 3d 1026, 1027. Pursuant to La. Code Civ. P. art. 966(D)(1), the burden on the party moving for

¹ NOCCI also filed a motion for oral argument. After careful consideration, we find oral argument would not be helpful to the court and therefore deny the motion.

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.” *See Reynolds v. Bordelon*, 2014-2371 (La. 6/30/15), 172 So. 3d 607, 610–11. 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. La. Code Civ. P. art. 967(B); *Bufkin v. Felipe's Louisiana, LLC*, 2014-0288 (La. 10/15/14), 171 So. 3d 851, 858. 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. *Dauzat v. Curnest Guillot Logging Inc.*, 2008-0528 (La. 12/2/08), 995 So. 2d 1184, 1187 (citing *Babin v. Winn–Dixie Louisiana, Inc.*, 2000-0078 (La. 6/30/00), 764 So. 2d 37, 40).

In its motion for summary judgment, NOCCI asserted plaintiff cannot prove an essential element of her claim because she is unable to establish that any action or inaction by NOCCI caused the injury to plaintiff's minor child. NOCCI's motion was supported by the affidavit of Ms. Belletto and the deposition of Ms. Adams, both of whom testified NOCCI had no role in the planning and preparation of the 2019 parade or any care, custody, or control of the parade at the time of the alleged incident.

Because NOCCI properly supported its motion for summary judgment, the burden shifted to plaintiff to set forth specific facts showing there is a genuine issue for trial. In arguing genuine issues exist over NOCCI's role in the parade, plaintiff cited a portion of Ms. Adams' deposition, in which she testified that city permits and insurance certificates for the 2019 parade were coordinated and obtained by a NOCCI employee, Melissa Monaghan. However, NOCCI points out that Ms.

Adams went on to testify that Ms. Monaghan was actually acting as a volunteer for the Chris Owens Easter Parade and was not acting in her capacity as a NOCCI employee at the time she secured the permit for the 2019 parade.

Plaintiff also places emphasis on an insurance certificate obtained by NOCCI which was submitted to the City to allow the permitting of the parade. NOCCI does not dispute the existence of the insurance certificate, but explains the certificate listed NOCCI as the named insured, rather than the Chris Owens Easter Parade. The mere fact that NOCCI chose to secure insurance to protect its own interests does not equate to an admission that it assumed responsibility or liability for the parade.

Finally, even assuming for sake of argument that NOCCI had some limited role in organizing the parade, plaintiff has failed to produce any evidence that any action or inaction by NOCCI resulted in the injury to plaintiff's child. Rather, the undisputed facts indicate the police, in consultation with Ms. Adams, made a decision during the parade to change the route due to congestion issues. It was during this unforeseen detour that the float struck a tree limb, causing injury to plaintiff's child. Ms. Adams' undisputed testimony establishes NOCCI had no input in the decision to detour the parade.

In sum, we find NOCCI has satisfied its burden on summary judgment by establishing the absence of factual support for an essential element of plaintiff's claim. Plaintiff has not produced any evidence of a material factual dispute. Summary judgment in favor of NOCCI is therefore mandated.

DECREE

For the reasons assigned, the writ is granted and made peremptory. The judgment of the district court is reversed. Summary judgment is granted, dismissing the claims of plaintiff, Amanda Corbajal, individually and on behalf of Jameson Morgan, against New Orleans Convention Co., Inc. with prejudice.