

The Supreme Court of the State of Louisiana

RUSSELL J. SANDERS

No. 2024-CC-00524

VS.

HACKBARTH DELIVERY SERVICE, INC.
AND TAMARA LATHAN

IN RE: Russell J. Sanders - Applicant Plaintiff; Russell's Seasoning Blends, LLC -
Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of East Baton Rouge,
19th Judicial District Court Number(s) 695138, Court of Appeal, First Circuit,
Number(s) 2024 CW 0293;

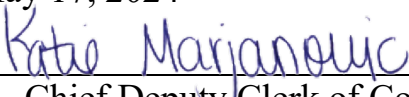
May 17, 2024

Writ application granted. See per curiam.

JBM
JLW
JDH
SJC
PDG

Genovese, J., concurs in the result.
Crain, J., concurs and assigns reasons,

Supreme Court of Louisiana
May 17, 2024



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-CC-00524

RUSSELL J. SANDERS

VS.

HACKBARTH DELIVERY SERVICE, INC. AND TAMARA LATHAN

*On Writ of Certiorari to the Court of Appeal, First Circuit,
Parish of East Baton Rouge*

PER CURIAM

Writ granted; stay lifted. The interpretation given La. C.C.P. art. 1313(A)(4) by the court of appeal’s majority erroneously places a burden of proof of receipt of an electronically transmitted pleading on the serving party. A plain reading of the statute establishes there is a presumption transmission is successful and the burden is on the party being served to rebut that presumption or timely notify the serving party of nonreceipt. *Cf. Clark v. Bridges*, 23-0237, pp. 7-10 (La. 2/22/23), 356 So. 3d 990, 994-96 (observing a distinction between “transmitted” and “delivered” for purposes of timely filing tax returns). Problematic is that the transmitting party has no way of knowing a pleading was received unless personally verified and a receiving party has no way of knowing whether a pleading was intended to be sent in the first instance. Clarification of the statute addresses itself to the legislature. However, we agree with Judges Chutz and Greene that, under the unique facts of this case, the trial court was within its discretion to grant a continuance for consideration of the opposition.

COURT OF APPEAL REVERSED; REMANDED TO TRIAL COURT