

The Supreme Court of the State of Louisiana

AMANDA JONES

No. 2024-C-00945

VS.

CITIZENS FOR A NEW LOUISIANA,  
MICHAEL LUNSFORD, AND RYAN THAMES

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IN RE: Amanda Jones - Applicant Plaintiff; Applying For Writ Of Certiorari, Parish  
of Livingston, 21st Judicial District Court Number(s) 175021, Court of Appeal, First  
Circuit, Number(s) 2023 CA 0654;  
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**December 27, 2024**

Writ application granted. See per curiam.

PDG

JLW

JTK

Hughes, J., concurs and assigns reasons.

Crain, J., dissents.

McCallum, J., dissents.

Supreme Court of Louisiana

December 27, 2024



Chief Deputy Clerk of Court  
For the Court

**SUPREME COURT OF LOUISIANA**

**No. 2024-C-00945**

**AMANDA JONES**

**VS.**

**CITIZENS FOR A NEW LOUISIANA, MICHAEL LUNSFORD, AND  
RYAN THAMES**

On Writ of Certiorari to the Court of Appeal, First Circuit, Parish of Livingston

PER CURIAM

We are called upon to determine whether the court of appeal erred in finding plaintiff's appeal of an October 11, 2022 judgment granting defendants' special motion to strike was untimely. For the reasons that follow, we vacate the judgment of the court of appeal and remand the case for consideration of the entire appeal on the merits.

**FACTS AND PROCEDURAL HISTORY:**

Plaintiff, Amanda Jones, filed a petition for damages for defamation and requested injunctive relief against defendants, Citizens for a New Louisiana, Michael Lunsford, and Ryan Thames. In response, defendants filed special motions to strike plaintiff's petition, pursuant to La. Code Civ. P. art. 971.<sup>1</sup>

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<sup>1</sup> La. Code Civ. P. art. 971 states, in relevant part:

A.(1) A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States or Louisiana Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established a probability of success on the claim.

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B. In any action subject to Paragraph A of this Article, a prevailing party on a special motion to strike shall be awarded reasonable attorney fees and costs.

By judgment dated October 11, 2022, the trial court granted defendants' special motions to strike plaintiff's petition and dismissed plaintiff's claims with prejudice. The judgment further provided that a hearing would be set for November 21, 2022 to determine statutory attorney fees in accordance with La. Code Civ. P. art. 971(B).

Plaintiff filed a motion for new trial. As a result, the parties agreed to defer the motion for attorney fees and costs. By judgment dated December 14, 2022, the trial court denied the motion for new trial and ordered the motion to award attorney fees and costs to be reset.

Thereafter, the parties entered into a stipulation regarding attorney fees and costs. On March 2, 2023, the trial court signed a "Final Judgment," wherein the court accepted the parties' stipulation as to attorney fees and costs. The judgment provided, in pertinent part:

This judgment shall be deemed final, the Court having already resolved the merits of this case by judgments signed October 11, 2022 and December 14, 2022, and there being no remaining issues to resolve.

Plaintiff filed a motion for a devolutive appeal on March 13, 2023. According to plaintiff, during the course of oral argument, the judges of the court of appeal, *sua sponte*, raised questions concerning whether the 2021 amendment to La. Code Civ. P. art. 2088(A)(10)<sup>2</sup> made the October 11, 2022 judgment final and immediately appealable. The court permitted the parties to file supplemental briefs on this issue.

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<sup>2</sup> La. Code Civ. P. art. 2088 states:

- A. The jurisdiction of the trial court over all matters in the case reviewable under the appeal is divested, and that of the appellate court attaches, on the granting of the order of appeal and the timely filing of the appeal bond, in the case of a suspensive appeal or on the granting of the order of appeal, in the case of a devolutive appeal. Thereafter, the trial court has jurisdiction in the case only over those matters not reviewable under the appeal, including the right to do any of the following:

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- (10) Set and tax costs, expert witness fees, and attorney fees.

On January 26, 2024, the court of appeal, in a divided opinion, affirmed the March 2, 2023 judgment on attorney fees, but declined to reach the merits of the October 11, 2022 judgment on the ground the appeal of this judgment was untimely. *Jones v. Citizens for a New Louisiana*, 2023-0654 (La. App. 1 Cir. 1/26/24), 387 So. 3d 1. The majority of the court found the October 11, 2022 judgment was a final and immediately appealable judgment because it resolved all issues, except attorney fees and costs, which the trial court retained jurisdiction to set under the recent amendment to La. Code Civ. P. art. 2088(A)(10). Accordingly, the majority found plaintiff's appeal of the October 11, 2022 judgment was untimely and declined to consider this portion of the appeal. The court further held the appeal of the March 2, 2023 judgment on attorney fees and costs was timely, but found plaintiff raised no arguments with respect to this judgment; therefore, the court of appeal affirmed it.

One judge dissented from the court's refusal to consider the October 11, 2022 judgment. The dissenting judge reasoned that the granting of a special motion to strike pursuant to La. Code Civ. P. art. 971 without resolution of attorney fees has been consistently characterized as an interlocutory judgment, and the 2021 amendment to La. Code Civ. P. art. 2088 did not change the character of the judgment.

Upon plaintiff's application, we now exercise our supervisory jurisdiction to consider whether the appeal of the October 11, 2022 judgment was timely.

## **DISCUSSION**

Under La. Code Civ. P. art. 1841, a final judgment is a judgment that "determines the merits in whole or in part," and an interlocutory judgment is one that "does not determine the merits but only preliminary matters in the course of the action." The October 11, 2022 judgment clearly grants defendants' special motions

to strike and dismisses “with full prejudice the claims of Plaintiff against Defendants Ryan Thames, Citizens for a New Louisiana, and Michael Lunsford.” However, the judgment does not make a mandatory award of attorney fees as required by La. Code Civ. P. art. 971(B) but instead reserves that determination for a later hearing.

In considering similar judgments rendered under La. Code Civ. P. art. 971, the appellate jurisprudence has uniformly characterized judgments granting a special motion to strike but not awarding attorney fees as interlocutory in nature. *See Alost v. Lawler*, 2020-0832, pp. 5-6 (La. App. 1 Cir. 6/2/21), 326 So. 3d 1255, 1260-61, writ denied, 2021-00941 (La. 10/19/21), 326 So. 3d 256; *Samuel v. Remy*, 2015-0464, 2016 WL 4591885 at \*5 (La. App. 1 Cir. 8/31/16) (unpub.), writ denied, 2016-1785 (La. 11/29/16), 211 So.3d 387; *Davis v. Benton*, 2003-0851, p. 6 (La. App. 1 Cir. 2/23/04), 874 So. 2d 185, 188 n.1.

However, these opinions involved facts which arose prior to the 2021 amendment to La. Code Civ. P. art. 2088. Effective August 1, 2021, La. Code Civ. P. art. 2088(A)(10) now provides:

A. The jurisdiction of the trial court over all matters in the case reviewable under the appeal is divested, and that of the appellate court attaches, on the granting of the order of appeal and the timely filing of the appeal bond, in the case of a suspensive appeal or on the granting of the order of appeal, in the case of a devolutive appeal. Thereafter, the trial court has jurisdiction in the case only over those matters not reviewable under the appeal, including the right to do any of the following:

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**(10) Set and tax costs, expert witness fees, and attorney fees.** [emphasis added].

The official revision comments explain this article allows attorney fees to be set while an appeal is pending:

The amendment to Subparagraph (A)(10) of this Article clarifies that the trial court retains jurisdiction for purposes of setting attorney fees after an appeal has been taken from the initial judgment. Trial courts award reasonable

attorney fees in many judgments, but often these judgments are appealed before the attorney fees are set. **With this amendment, it is no longer necessary for an appellate court to dismiss an appeal in order to allow the trial court to set the amount of the attorney fees, because the trial court has jurisdiction to set attorney fees while the appeal is pending.** [emphasis added].

While La. Code Civ. P. art. 2088(A)(10) clearly provides that the trial court retains jurisdiction to set attorney fees while an appeal is pending, the legislature made no corresponding changes to La. Code Civ. P. art. 1915(A) which would make such partial judgments immediately appealable. Therefore, we must conclude that a partial judgment granting a special motion to strike but not awarding attorney fees remains governed by La. Code Civ. P. art. 1915(B), which provides:

- (1) When a court renders a partial judgment or partial summary judgment or sustains an exception in part, as to one or more but less than all of the claims, demands, issues, or theories against a party, whether in an original demand, reconventional demand, cross-claim, third-party claim, or intervention, the judgment shall not constitute a final judgment unless it is designated as a final judgment by the court after an express determination that there is no just reason for delay.
- (2) **In the absence of such a determination and designation, any such order or decision shall not constitute a final judgment for the purpose of an immediate appeal** and may be revised at any time prior to rendition of the judgment adjudicating all the claims and the rights and liabilities of all the parties. [emphasis added]

Laws on the same subject matter must be interpreted in reference to each other. La. Civ. Code art. 13; *Oubre v. Louisiana Citizens Fair Plan*, 2011-0097, p.12 (La. 12/16/11), 79 So. 3d 987, 997. Where two statutes deal with the same subject matter, they should be harmonized if possible, as it is the duty of the courts, in the construction of statutes, to harmonize and reconcile laws. *South Lafourche Levee Dist. v. Jarreau*, 2016-0788, p. 8 (La. 3/31/17), 217 So. 3d 298, 304; *LeBreton v.*

*Rabito*, 97-2221, p. 7 (La.7/8/98), 714 So. 2d 1226, 1229; *Chappuis v. Reggie*, 222 La. 35, 44, 62 So. 2d 92, 95 (1952).

Under the facts of this case, we have little difficulty in harmonizing the provisions of La. Code Civ. P. art. 2088(A)(10) and La. Code Civ. P. art. 1915. By operation of La. Code Civ. P. art. 1915(B)(1), the October 11, 2022 judgment was a partial judgment because it did not resolve all issues in the case. As such, it could not constitute a final judgment for purposes of an immediate appeal “unless it is designated as a final judgment by the court after an express determination that there is no just reason for delay.” Had the trial court made such a determination, plaintiff would have been entitled to take an immediate appeal, and the trial court would have retained jurisdiction under La. Code Civ. P. art. 2088(A)(10) to adjudicate the issue of attorney fees during the pendency of the appeal.

However, it is undisputed the trial court did not designate the October 11, 2022 judgment as immediately appealable under La. Code Civ. P. art. 1915(B)(1). Pursuant to La. Code Civ. P. art. 1915(B)(2), the October 11, 2022 judgment therefore remained in an interlocutory posture until March 2, 2023, when the trial court signed a final judgment adjudicating all claims.

Plaintiffs filed a timely appeal of the March 2, 2023 final judgment. This appeal properly placed the October 11, 2022 interlocutory judgment before the court of appeal. Therefore, the court of appeal erred in failing to address the merits of plaintiff’s appeal with respect to the October 11, 2022 judgment.

### **DECREE**

For the reasons assigned, the writ is granted and made peremptory. The January 26, 2024 judgment of the court of appeal is vacated and set aside. The case is remanded to the court of appeal to consider all assignments of error raised in the March 13, 2023 devolutive appeal filed by Amanda Jones.