

ERIN HAYDEL

NO. 24-CA-566

VERSUS

FIFTH CIRCUIT

AARON MOLLERE, ET AL

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE FORTIETH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA
NO. 72,407, DIVISION "C"
HONORABLE KIRK A. VAUGHN, JUDGE AD HOC, PRESIDING

April 23, 2025

SCOTT U. SCHLEGEL
JUDGE

Panel composed of Judges Marc E. Johnson,
Stephen J. Windhorst, and Scott U. Schlegel

AFFIRMED; SANCTIONS GRANTED

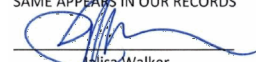
SUS

MEJ

CONCURS IN PART, DISSENTS IN PART WITH REASONS

SJW

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Alisa Walker
Deputy, Clerk of Court

COUNSEL FOR DEFENDANT/APPELLANT,
DANIEL E. BECNEL, III AND DANIEL E. BECNEL, III AND KATHRYN W.
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Kevin P. Klibert

COUNSEL FOR PLAINTIFF/APPELLEE,
ERIN HAYDEL

Jacques F. Bezou, Jr.

Payton S. Lachney

SCHLEGEL, J.

This matter involves a legal malpractice action. Defendant/Appellant, Daniel E. Becnel, III, appeals the trial court's judgment granting a motion for partial summary judgment filed by plaintiff/appellee, Erin Haydel, on the issue of Mr. Becnel's negligence. For the reasons explained below, we affirm the trial court's judgment.

FACTUAL AND LEGAL BACKGROUND

On June 19, 2018, Ms. Haydel filed a petition for damages for legal malpractice against Mr. Becnel,¹ Aaron Mollere, and the Becnel Law Firm, LLC. In her petition, Ms. Haydel explained that on March 10, 2016, she returned to Dallas following a honeymoon trip to Mexico. She alleged that shortly after arriving home, her husband, Aaron Augustine, viciously and savagely beat her. As a result, on April 4, 2016, she retained Mr. Becnel and Mr. Mollere to represent her in divorce proceedings in Texas. She alleged that Mr. Mollere was licensed to practice as an attorney in Texas, and Mr. Becnel filed a motion to enroll *pro hac vice* in her divorce proceedings. She asserted that she did not include a claim to recover damages for the personal injuries resulting from the assault in the divorce proceedings, because Mr. Becnel and Mr. Mollere advised that she should file a separate tort action wherein she could join her ex-husband's insurance carrier as a defendant. Following a trial on January 9, 2017, the Texas court granted a divorce in favor of Ms. Haydel on grounds of cruelty due to the assault she suffered at the hands of her ex-husband.

In March 2017, Mr. Mollere filed a petition for damages on Ms. Haydel's behalf in Texas, against her ex-husband and his insurer, Allstate, for the injuries she suffered as a result of the assault. Almost a year later in February 2018, Ms. Haydel attended a mediation where she allegedly learned for the first time that her

¹ Ms. Haydel referred to Mr. Becnel as "Daniel Ellmore "Becket" Becnel" in her original petition.

personal injury lawsuit was subject to an exception of *res judicata* because she did not include her personal injury claims as part of the divorce proceedings. Ms. Haydel claimed that in order to mitigate her damages, she settled her personal injury lawsuit for significantly less than the \$1.5 million in damages she sought to recover. Ms. Haydel further alleged that Mr. Becnel and Mr. Mollere knew or should have known that the failure to pursue her personal injury claims in her divorce proceeding would bar her from later pursuing these claims as a separate matter. As a result, Ms. Haydel alleges that they breached the duties they owed to her as her attorneys and failed to exercise the proper standard of care.

In December 2018, Ms. Haydel moved to voluntarily dismiss her legal malpractice claims against defendant, Becnel Law Firm, without prejudice and the trial court granted the motion on December 5, 2018.² Several months later, in August 2019, Ms. Haydel moved to supplement and amend her petition for damages to add the “Daniel E. Becnel, III and Kathryn W. Becnel Law Office, Inc.” as a defendant. The trial court granted the motion as unopposed on November 4, 2019. In addition, on July 19, 2021, Ms. Haydel moved to dismiss her claims against Mr. Mollere with prejudice, which the trial court granted on August 11, 2021.

On December 3, 2021, Ms. Haydel filed a motion for partial summary judgment asking the trial court to enter judgment in her favor and against defendants, Daniel E. Becnel, III, and the “Kathryn W. Becnel Law Firm, Inc.” (“Defendants”) on the issue of liability. Ms. Haydel argued that no genuine issues of material fact existed as to these Defendants’ liability for failing to join her personal injury claims in her divorce proceedings. She argued that their failure to join the claims constituted a breach of their duties of competence and diligence.

² In his appellate brief, Mr. Becnel contends that this is an “unrelated law firm.”

In support of her motion, Ms. Haydel attached her affidavit and a copy of the petition for damages filed in these proceedings. In her affidavit, she explained how her ex-husband attacked her after returning from their honeymoon. She stated that the attack left her with a lumbar strain, hematoma, soft tissue damage with permanent scarring, and bruising all over her body. Shortly thereafter, on April 4, 2016, she hired Mr. Becnel and Mr. Mollere to represent her in the divorce proceeding against her ex-husband. She explained that Mr. Becnel and Mr. Mollere “advised [her] it would be a better strategy to wait and bring [her] personal injury suit against [her] ex-husband after the divorce suit. [She] relied on this advice and allowed them to proceed without asserting [her] personal injury [claims].” She further explained that in February 2018, she attended a mediation for her personal injury lawsuit and learned that she should have brought her personal injury claims as part of her divorce proceedings. She also attached an unsigned copy of the Final Decree of Divorce and the petition for damages filed in the Texas personal injury lawsuit to her affidavit.

Ms. Haydel claimed in her supporting memorandum that Defendants did not contest that an attorney-client relationship existed between them. She further argued that it is well-settled under Texas law that tort claims arising from the same transaction as a divorce claim must be brought in the same action or be subject to an exception of *res judicata*, citing *Brinkman v. Brinkman*, 966 S.W.2d 780, 783 (Tex.App.–San Antonio 1998, pet. denied). Thus, she argued that she did not need expert testimony to establish the standard of care or to demonstrate that Defendants’ advice to her fell below the standard of care. She claimed that because Mr. Becnel and Mr. Mollere were negligent in advising her to pursue her personal injury claim as a second action, she lost the opportunity to assert her personal injury claims against her ex-husband.

She further argued that Louisiana courts have adopted a shifting burden in legal malpractice cases such as this where, upon a *prima facie* showing by the plaintiff of an attorney-client relationship and negligence by the attorney, the burden then shifts to the attorney to show the plaintiff would not have prevailed on the underlying claim. Ms. Haydel asserted that she established an attorney-client relationship, the applicable duty of care and a breach of that duty, thereby shifting the burden to Defendants to establish that she would not have prevailed on her claim against her ex-husband. She argued Defendants could not meet their burden and thus she is entitled to summary judgment “as to liability and causation with the presumption that Defendants’ breach caused” her losses.

The trial court set the summary judgment motion for hearing on January 19, 2022. The parties subsequently agreed to continue the hearing date to March 23, 2022. Defendants filed an untimely opposition brief to the summary judgment motion on March 18, 2022.³ In response, Ms. Haydel filed a reply memorandum seeking to strike Defendants’ opposition memorandum, including the attached affidavit from Mr. Becnel, as untimely. She further argued that Mr. Becnel confirmed in his affidavit that he had an attorney-client relationship with her and was involved in her Texas cases. Finally, she asserted that the law provides that attorneys who agree to represent a client in a joint venture are jointly liable for their actions.⁴

At oral argument on March 23, 2022, the trial court first considered Ms. Haydel’s request to strike Defendants’ opposition. After defense counsel did not dispute that the opposition was untimely, the trial court granted the request to

³ La. C.C.P. art. 966(B)(2) requires an opposition to a summary judgment motion and all supporting documents to be filed and served not less than fifteen days prior to the hearing on the motion.

⁴ Ms. Haydel also argued that Defendants failed to respond to her requests for admission and therefore, they are deemed admitted. She attached a copy of the requests for admission to her reply memorandum. However, La. C.C.P. art. 966(B)(3) provides that “[n]o additional documents may be filed with a reply memorandum.” Therefore, we will not consider the documents attached to Ms. Haydel’s reply memorandum in our *de novo* review.

strike the opposition. Defense counsel then argued that even without the opposition, Ms. Haydel failed to meet her burden to prove that Defendants are liable for Mr. Mollere's actions. Following oral argument, the trial court stated that he was "going to grant the summary judgment." Ms. Haydel's counsel agreed to prepare and circulate a judgment.

Ms. Haydel filed a written judgment for the trial court's signature into the record on March 31, 2022. However, the trial court did not sign the judgment until January 19, 2023. The judgment stated only that the motion for summary judgment was granted. It did not state the specific relief granted or the names of the defendants against whom judgment was granted.

Mr. Becnel then filed a motion for new trial on February 8, 2023, arguing that the trial court should not have granted summary judgment because Ms. Haydel "did not establish the relationship between Defendant's (sic) Becnel and Mr. Mollere and further did not allocate to whom any negligent acts should be attributed."⁵ Mr. Becnel argued in his supporting memorandum that he and Mr. Mollere were associates at the time Ms. Haydel retained them to represent her in the Texas divorce action. He argued that Mr. Mollere was a licensed Texas attorney and drafted all of the pleadings. Thus, he claimed that Mr. Mollere was the only one who should be found negligent. He also argued that at some point during the litigation, he was no longer associated with Mr. Mollere and Mr. Mollere continued representing Ms. Haydel without any input whatsoever from Mr. Becnel. He finally argued that he did not sign any pleadings or attend the mediation.

In her opposition to the motion for new trial, Ms. Haydel argued that Mr. Becnel was attempting to raise the same arguments he raised in his untimely

⁵ The other entity named in Ms. Haydel's motion for partial summary judgment, "the Kathryn W. Becnel Law Firm, Inc." did not join in the motion for new trial.

opposition to her summary judgment motion. She asserted that Mr. Becnel did not cite to any new evidence and could not seek a new trial on grounds that he previously failed to raise. She further argued that the trial court did not err in granting summary judgment in her favor because she hired both Mr. Becnel and Mr. Mollere to represent her and they both advised her to bring her personal injury action after the divorce.

On March 29, 2023, the trial court issued a judgment that granted the motion for new trial because “the parties agreed to submit the matter on the record.” However, the trial court went on to find that there was “no additional evidence to support a modification of its prior judgment.” Therefore, the trial court issued another judgment granting Ms. Haydel’s motion for summary judgment. The judgment further stated as follows:

The affidavit of Ms. Haydel was not countered by an opposing affidavit as required to establish genuine issue(s) of material fact. The affidavit simply stated that Mr. Becnel had no input after ‘Mr. Mollere moved his office.’ It does not directly address the affidavit submitted by Ms. Haydel. Mr. Becnel or his law firm did not withdraw or submit any evidence that Ms. Haydel was no longer represented by Mr. Becnel or the firm.

Just as with the prior judgment, the March 29, 2023 judgment also failed to specify the relief granted to Ms. Haydel or identify the parties against whom judgment was granted.

On April 27, 2023, the trial court signed an order recognizing that it previously granted a motion for partial summary judgment and declared that the judgment was a final, appealable judgment. Mr. Becnel then filed a Motion and Order to Appeal Final Judgment on May 30, 2023, which the trial court granted on June 22, 2023.⁶ The Clerk of Court issued a notice of civil appeal to this Court on March 19, 2024, and the record was lodged with this Court on November 21, 2024.

⁶ The “Kathryn W. Becnel Law Firm, Inc.” also did not join in the motion to appeal or file a separate appeal.

On December 3, 2024, Ms. Haydel filed a timely answer to the appeal with this Court. In her answer, Ms. Haydel contends that she is entitled to an award of damages against Mr. Becnel for filing a frivolous appeal pursuant to La. C.C.P. art. 2164. Ms. Haydel asserted that the trial court granted summary judgment on the issue of liability without opposition and that Mr. Becnel filed this appeal solely to disrupt the trial date on the issue of damages that was set on May 5, 2023.

On January 17, 2025, this Court issued an order remanding the matter to the trial court pursuant to La. C.C.P. art. 1918(A), to amend its judgment to include the appropriate and necessary decretal language. On January 29, 2025, the trial court signed an Amended Partial Summary Judgment, which provided as follows:

IT IS ORDERED, ADJUDGED AND DECREED the motion for summary judgment as to the negligence of Daniel “Becket” Becnel and Kathryn W. Becnel Office, Inc., be and is hereby granted in favor of Erin Haydel and against Daniel “Becket” Becnel and Kathryn W. Becnel Law Office, Inc., this judgment is final and appealable.⁷

LAW AND DISCUSSION

On appeal, Mr. Becnel argues that the trial court erred by finding there was no genuine issues of material fact with respect to whether he committed legal malpractice and whether he was responsible for the acts of another. To support his arguments, Mr. Becnel cites to his untimely opposition brief and affidavit. Ms. Haydel argues in response that Mr. Becnel is asking this Court to consider his untimely opposition to reverse the trial court’s judgment, and he failed to disclose to this Court that the trial court struck his opposition as untimely. She further argues that the trial court did not err by granting her motion for partial summary judgment because there is no evidence to contradict that 1) she was represented by Mr. Becnel; 2) he incorrectly advised her to not include her personal injury claims

⁷ Because the “Kathryn W. Becnel Law Office, Inc.” did not join in Mr. Becnel’s motion for appeal or file a separate appeal, we do not address the judgment entered against that entity in this appeal.

in her divorce proceedings; and 3) this advice caused her harm in the loss of the ability to pursue her claim.⁸

Partial Summary Judgment on Issue of Negligence

Pursuant to La. C.C.P. art. 966 A(1), a party may move for summary judgment on all or part of the relief requested. After an opportunity for adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law. La. C.C.P. art. 966 A(3). The burden of proof rests with the mover. La. C.C.P. art 966(D)(1). Once a party seeking a summary judgment properly supports the motion and carries her burden of proof, the non-moving party who opposes the motion for summary judgment must submit factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law. *Id.*

In a situation where the motion for summary judgment is not opposed and the mover has made a proper showing that resolves the issues material to its motion, the motion should be granted. *McKnight v. Villareal*, 23-157 (La. App. 1 Cir. 10/18/23), 377 So.3d 294, 299. If, however, the mover's showing is insufficient and does not entitle mover to summary judgment as a matter of law, summary judgment should be denied. *Id.* The failure to file an opposition does not automatically require that the motion for summary judgment be granted, as the

⁸ We recognize that Ms. Haydel contends the trial court entered a partial summary judgment on the issues of negligence and causation and thus established liability in her favor. However, the trial court did not specify the exact relief granted in its oral reasons or in its January 19, 2023 or March 23, 2023 judgments. It was not until this Court remanded the matter to the trial court to amend its judgment to add the appropriate decretal language pursuant to La. C.C.P. art. 1918(A), that the trial court specified it was granting a partial summary judgment on the issue of negligence. In order to find liability exists, the trial court must enter a judgment not only as to negligence; it must also find that the attorney's negligence caused some loss. See *MB Indus., LLC v. CNA Ins. Co.*, 11-303 (La. 10/25/11), 74 So.3d 1173, 1187; *Neville v. Redmann*, 22-175 (La. App. 5 Cir. 12/31/22), 356 So.3d 568, 576, writ denied, 23-136 (La. 4/4/23), 358 So.3d 861. Thus, we only address the issue of negligence and express no opinion as to the causation element.

initial burden of proof is on the mover. *Auricchio v. Harriston*, 20-1167 (La. 10/10/21), 332 So.3d 660, 663 n.2.

However, when a motion for summary judgment is made and supported with affidavits, depositions, and/or the other documents that may be filed or referenced in support of the motion, the adverse party may not rest merely on the allegations or denials contained in the pleadings. *Renaudin v. Bosworth*, 23-98 (La. App. 5 Cir. 5/17/23), 367 So.3d 116, 121, *writ denied*, 23-845 (La. 10/10/23), 371 So.3d 453. Argument of counsel and briefs, no matter how artful, are not sufficient to raise a genuine issue of material fact. Allegations without substance will not satisfy the adverse party's burden. *Id.* at 122.

Appellate courts review summary judgments *de novo* using the same criteria as the trial courts to determine whether summary judgment is appropriate.

Lapuyade v. Rawbar, Inc., 18-474 (La. App. 5 Cir. 12/27/18), 263 So.3d 508, 511, *writ denied*, 19-315 (La. 4/15/19), 267 So.3d 1126. "Therefore, appellate courts must ask the same questions as the district court: whether there is any genuine issue of material fact, and whether mover is entitled to judgment as a matter of law." *Id.* at 512.

To prevail in a legal malpractice claim, the plaintiff must prove: (1) an attorney-client relationship; (2) the attorney was negligent in his representation of his client; and (3) the negligence caused the plaintiff's loss. *Willis v. Meilleur*, 11-705 (La. App. 5 Cir. 5/31/12), 96 So.3d 1259, 1270, *writ denied*, 12-2078 (La. 11/16/12), 102 So.3d 42, *citing Costello v. Hardy*, 03-1146 (La. 1/21/04), 864 So.2d 129, 138. The standard of practice that an attorney must exercise in the representation of his client is that degree of care, skill, and diligence, which is exercised by prudent practicing attorneys in the locality. *MB Industries*, 74 So.3d at 1184, *citing Ramp v. St. Paul Fire and Marine Insurance Company*, 269 So.2d 239, 244 (1972). Plaintiffs often retain an expert witness both to establish the

standard of care for prudent attorneys in the relevant locality and to show that the attorney's actions fell below the standard of care. *MB Industries, LLC*, 74 So.3d at 1184. In *Ramp*, 269 So.2d at 244, however, the Louisiana Supreme Court recognized that expert testimony is not always necessary; an expert is *not* necessary where the alleged legal malpractice is "obvious" or the defendant attorney committed "gross error."

Ms. Haydel argues that according to well-settled law in Texas, she was required to pursue her personal injury claims against her ex-husband contemporaneously with the divorce proceeding. She cites to *Brinkman v. Brinkman, supra*, wherein the appeals court considered whether a wife's personal injury claims against her ex-husband should have been joined in their divorce proceedings. Ms. Brinkman filed a personal injury lawsuit against her ex-husband after he physically assaulted her and caused permanent damage to two discs in her neck. The husband filed divorce proceedings and Ms. Brinkman counter-sued alleging cruel treatment as grounds for the divorce. The parties eventually entered into an agreed divorce decree. Ms. Brinkman then filed her personal injury lawsuit against her ex-husband, and he filed a motion for summary judgment arguing that her claims were barred under the doctrine of *res judicata*.

The trial court granted the motion, and the appellate court affirmed the ruling finding that Ms. Brinkman should have brought her personal injury claims as part of the divorce proceeding because the assault was at issue in the proceedings. In reaching this conclusion, the *Brinkman* court relied on the Texas Supreme Court's decision in *Twyman v. Twyman*, 855 S.W.2d 619, 625 n.17 (Tex. 1993), wherein the Supreme Court noted that it anticipated interspousal tort claims and divorce proceedings would remain separate only where the facts supporting the tort action are different from those supporting a petition for divorce. In upholding the application of *res judicata* to Ms. Brinkman's personal injury claims, the

appellate court held that “[b]ecause Ms. Brinkman knew about her personal injury claim against Mr. Brinkman and used it to her advantage in the divorce proceeding, the claim should have been joined with the divorce action.” *Brinkman*, 966 S.W.2d at 783; *see also McNair v. McNair*, 2023 WL 4072829 (Tex.App.–Dallas 2023).

Mr. Becnel does not dispute that he had an attorney-client relationship with Ms. Haydel. And he does not cite to any evidence in the record to counter Ms. Haydel’s affidavit stating that both Mr. Becnel and Mr. Mollere advised her to pursue her personal injury claims in a separate proceeding. Further, Mr. Becnel does not attempt to cite to any cases or law in Texas to counter the *Twyman*, *Brinkman*, and *McNair* cases cited by Ms. Haydel. These cases indicate that Mr. Becnel should have advised her to pursue her personal injury claims in her divorce proceedings because she sought and obtained a divorce based on the same assault that served as the grounds for her personal injury claims. Mr. Becnel’s only response is a conclusory argument that no exception of *res judicata* was filed in the Texas personal injury lawsuit and it is speculative whether a Texas court would have granted the exception.

Ms. Haydel also argues that this matter involves an issue of obvious negligence that does not require expert testimony to establish the standard of care or a breach of that standard. Ms. Haydel argues that this matter is similar to cases involving obvious negligence where an attorney fails to investigate the correct date of prescription and allows the claim to prescribe, and expert testimony is not required. *See, e.g. Watkins v. Sheppard*, 278 So.2d 890, 892 (La. App. 1st Cir. 1973). We agree. The failure to advise Ms. Haydel to include her personal injury claims in her divorce proceedings allowed her claims to become subject to dismissal pursuant to the doctrine of *res judicata*, just as the client’s claims in *Watkins* were subject to dismissal pursuant to prescription. Also, Mr. Becnel does

not argue on appeal that expert testimony is required for Ms. Haydel to satisfy her burden of proof.

Accordingly, we find that Ms. Haydel met her burden of proof to establish that Mr. Becnel owed a duty of care and breached that duty. Thus, the trial court did not err by granting summary judgment on the issue of negligence.

Ms. Haydel's Request for Sanctions

As previously explained, Ms. Haydel filed an answer to the appeal and seeks sanctions against Mr. Becnel under La. C.C.P. art. 2164 for filing a frivolous appeal.

La. C.C.P. art. 2164 provides that the “court may award damages, including attorney fees, for frivolous appeal or application for writs, and may tax the costs of the lower or appellate court, or any part thereof, against any party to the suit, as in its judgment may be considered equitable.” Art. 2164 is penal in nature and must be strictly construed. *Alombro v. Alfortish*, 02-1081 (La. App. 5 Cir. 4/29/03), 845 So.2d 1162, 1170, *writ denied*, 03-1947 (La. 10/31/03), 857 So.2d 486. An appellate court may award damages for a frivolous appeal or writ application under La. C.C.P. art. 2164 when there is no serious legal question, when the appeal is taken solely for the purpose of delay, or when it is evident that appellant’s counsel does not seriously believe in the position he advocates. *Id.* An appeal is not automatically deemed frivolous simply because it lacks merit. *Id.*

Ms. Haydel argues that sanctions are appropriate in this case due to the significant delay caused by Mr. Becnel’s frivolous appeal. She contends that Mr. Becnel bases his entire appeal on the affidavit attached to his untimely opposition to her summary judgment motion and fails to mention that the trial court struck his opposition as untimely in his appellate brief. Thus, she contends that a material misrepresentation forms the only basis of the appeal. Ms. Haydel also argues that Mr. Becnel delayed the adjudication of this appeal by failing to timely pay the

appeal costs and then failing to file a timely brief with this Court. She argues that Mr. Becnel's conduct demonstrates an intent to delay these proceedings as long as possible to avoid trial and thus, she urges this Court to impose sanctions.

It is well-settled that Louisiana courts cannot consider untimely oppositions to summary judgment motions. *See Auricchio, supra* (the time limits are mandatory and trial courts have no discretion to consider late-filed opposition briefs); *see also Mahe v. LCMC Holdings*, 23-25 (La. 3/14/23), 357 So.3d 322; *Hadwin v. ABC Insurance Company*, 24-72 (La. 4/9/24), 382 So.3d 827, 829.

In his appellant brief, Mr. Becnel failed to mention or acknowledge that the trial court struck his opposition brief as untimely and proceeded to cite to his opposition brief and affidavit in support of all of his arguments raised on appeal. Further, he does not cite to any legal authority to counter Ms. Haydel's arguments regarding the standard of care and breach of the standard of care. After reviewing the record and arguments raised in Mr. Becnel's appellate brief, we agree that this appeal is frivolous and was taken solely to delay these proceedings. Furthermore, we remind Mr. Becnel and his counsel, Kevin Klibert, of the obligation of candor to this Court under Rule 3.3 of the Louisiana Rules of Professional Conduct and caution them not to repeat this mistake.

Consequently, we grant Ms. Haydel's request for sanctions against defendant, Daniel E. Becnel, III. We award plaintiff, Erin Haydel, \$1,500.00 in attorney's fees for work performed on this appeal.

CONCLUSION

For the reasons stated above, we affirm the trial court's judgment granting plaintiff Erin Haydel's motion for partial summary judgment on the issue of

negligence. We also grant Ms. Haydel's request for sanctions and order defendant, Daniel E. Becnel, III, to pay \$1,500.00 in attorney's fees to plaintiff, Erin Haydel. Costs of this appeal are assessed against defendant, Daniel E. Becnel, III.

AFFIRMED; SANCTIONS GRANTED

ERIN HAYDEL

NO. 24-CA-566

VERSUS

FIFTH CIRCUIT

AARON MOLLERE, ET AL

COURT OF APPEAL

STATE OF LOUISIANA

WINDHORST, J., CONCURS IN PART, DISSENTS IN PART WITH REASONS

I agree with the majority's opinion affirming the trial court's judgment, granting plaintiff's motion for partial summary judgment on the issue of negligence.

I respectfully disagree with the majority's decision to award sanctions against defendant, Daniel E. Becnel, III. Considering the circumstances and the law favoring appeals, I do not believe counsel's conduct rises to a level warranting sanctions.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **APRIL 23, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

24-CA-566

E-NOTIFIED

40TH DISTRICT COURT (CLERK)

HONORABLE KIRK A. VAUGHN (DISTRICT JUDGE)

HONORABLE J. STERLING SNOWDY (DISTRICT JUDGE)

KEVIN P. KLIBERT (APPELLANT)

JACQUES F. BEZOU, JR. (APPELLEE)

PAYTON S. LACHNEY (APPELLEE)

MAILED

NO ATTORNEYS WERE MAILED