

**Fifth Circuit Court of Appeal**  
**State of Louisiana**

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No. 25-CA-594

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JUSTIN DONELSON, ET AL

*versus*

IRA BOSHNACK, ET AL

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ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 839-568, DIVISION "H"  
HONORABLE DONALD L. FORET, JUDGE PRESIDING

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April 29, 2026

**JOHN J. MOLAISON, JR.**

**JUDGE**

Panel composed of Judges Jude G. Gravois,  
John J. Molaison, Jr., and Scott U. Schlegel

**AFFIRMED**

**JJM**

**JGG**

**SUS**

TRUE COPY



JALISA WALKER  
DEPUTY CLERK

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JUSTIN AND ASIA DONELSON

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**MOLAISON, J.**

The appellants, Justin and Asia Donelson, ask this Court to review the September 17, 2025 judgment of the trial court. For the following reasons, we affirm that judgment.

**FACTS AND PROCEDURAL HISTORY**

On April 8, 2022, the appellants were involved in a collision with a pickup truck driven by the defendant/appellee, Ira Boshnack. The appellants sued Mr. Boshnack and his insurer, Imperial Fire and Casualty Insurance Company, alleging that Mr. Boshnack caused the accident. The parties tried this case before a judge on September 4, 2025.

At trial, Asia testified that they left a parking lot with Justin driving and pulled onto Veterans Boulevard. Traffic was stopped as Justin drove the car across traffic to reach the U-turn lane. Asia stated that Justin waved to Mr. Boshnack and merged in front of the Boshnack vehicle. They stopped with the front of their vehicle in front of the Boshnack vehicle, straddling the middle and left lanes at an angle. She testified that they stopped for about a minute, the light turned green, and Boshnack struck their vehicle, lifting it and dragging it forward. According to Asia, Justin blew the horn the entire time their car was being dragged. When the Boshnack vehicle stopped, their car dropped to the ground. She testified that when Mr. Boshnack exited his vehicle, he said he did not see them and did not hear their horn because his music was loud.

On cross-examination, Asia admitted that she received a settlement under the liability portion of her insurance policy for this accident.

The video footage from the investigating officer's body camera, which was played at trial, shows Justin and Mr. Boshnack speaking to the officer. Justin told the officer that the collision happened as he was merging. Mr. Boshnack told the

officer that he was stopped in the left lane when the Donelson vehicle struck him on the passenger side.

The crash report, also accepted into evidence, states that Justin was in the middle lane, then moved into the left lane and did not see the Boshnack vehicle, which he struck. The crash report notes damage to the entire front bumper area of the Donelson vehicle and minor damage to the front passenger door of the Boshnack vehicle. The report states that Justin violated La. R.S. 32:79, which refers to improper lane use,<sup>1</sup> but he did not receive a citation.

At trial, Justin testified that after he pulled out of the parking lot, he drove into the middle lane, turned on his blinker, and waved to Mr. Boshnack to let him know he was going to move into the left lane in front of Boshnack's vehicle. Justin explained that the front end of his car was in the left lane for 30 seconds to a minute when the light turned green and the collision happened.

Justin testified that at the time of the accident, he did not realize that "merging" meant his car was moving. He stated that he was not moving at the time of the accident; rather, there was about a car length between the Boshnack vehicle and the preceding vehicle that allowed him to merge into the left lane. He explained that he was halfway into the left lane when the front end of the Boshnack vehicle struck his vehicle. Justin denied telling the officer that he did not see the Boshnack vehicle.

Mr. Boshnack testified that he stopped at a red light on Veterans Boulevard with another vehicle a few feet ahead of him. When the light turned green, he moved forward and the plaintiffs' vehicle struck his truck on the right side. The front bumper of the plaintiffs' vehicle wedged into the right front wheel well of his truck. He heard the impact but did not see the plaintiffs' vehicle before the

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<sup>1</sup> La. R.S. 32:79(1) states: "A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety."

collision. Mr. Boshnack testified that he never heard a horn and did not have music on.

At the conclusion of the evidence, the judge found that the plaintiffs failed to prove liability on the part of Mr. Boshnack.

The plaintiffs filed this timely appeal.

## **LAW AND DISCUSSION**

On appeal, the plaintiffs argue that the trial court committed manifest error by finding no liability on the part of Mr. Boshnack and by failing to award damages for their injuries.

In an action to recover damages for injuries allegedly caused by another's negligence, the plaintiff must prove negligence on the part of the defendant by a preponderance of the evidence. *Hanks v. Entergy Corp.*, 06-477 (La. 12/18/06), 944 So.2d 564, 578. The appropriate standard for appellate review of factual determinations is the manifest error standard, which precludes the setting aside of a trial court's factual findings unless they are clearly wrong in light of the record viewed in its entirety. *Reyes v. Clasing*, 13-791 (La. App. 5 Cir. 3/12/14), 138 So.3d 61, 64. To reverse a fact-finder's determination based on manifest error, the appellate court must find from the record that a reasonable factual basis does not exist for the trial court's finding, and the appellate court must also determine that the record establishes that the finding is clearly wrong. *Id.* On appeal, the issue before the appellate court is not whether the trier of fact was right or wrong, but whether the factfinder's conclusion was reasonable. *Jones v. Mkt. Basket Stores, Inc.*, 22-841 (La. 3/17/23), 359 So.3d 452, 463. The trial court is uniquely positioned to view and hear the witnesses' testimony. The appellate court may not simply decide whether it would have found the facts differently and substitute its opinion for that of the trial court. *Reyes*, 138 So.3d at 64 (citing *Evans v. State Farm Mut. Auto. Ins. Co.*, 03-1003 (La. App. 5 Cir. 12/30/03), 865 So.2d 195,

197). Where there is a conflict in testimony, the appellate court should not disturb reasonable determinations of credibility and reasonable inferences of fact. *Id.*

This case presents conflicting testimony about how the accident happened. The plaintiffs contend that the front of Mr. Boshnack's vehicle struck their vehicle while they were stopped with their car partially in front of the Boshnack vehicle. Mr. Boshnack contends the plaintiffs' vehicle struck his vehicle on the passenger side.

In rendering judgment, the trial judge stated that the plaintiffs failed to present evidence to prove how the accident happened. On appeal, the plaintiffs argue that the only evidence presented at trial about how the accident occurred was the testimony of Asia and Justin, who said their vehicle was stopped partially in front of the Boshnack vehicle when they were struck. They contend that because Mr. Boshnack testified that he did not see their vehicle before the accident, he does not know how the accident occurred. The plaintiffs contend the trial judge was manifestly erroneous in not accepting their testimony about how the accident happened.

The plaintiffs' argument ignores the inconsistencies in their trial testimony and the statements they made to the officer who arrived immediately after the accident. Justin told the officer that he was merging into the left lane when the Boshnack vehicle struck him. However, at trial, Justin testified that he was stopped when the accident happened, explaining that he did not know that "merging" meant his vehicle was in motion. The plaintiffs' argument also conflicts with the photographic evidence. These photographs, taken by the officer, show damage to the front passenger door of the Boshnack vehicle; there are no pictures of the front of the Boshnack vehicle. The plaintiffs claim that the damage to the front passenger door of the Boshnack vehicle existed before the accident, but the record does not contain any evidence to support this claim. Additionally, the

evidence shows that Asia, as a guest passenger with Justin driving, received a \$15,000 settlement under the liability portion of her insurance policy. Asia testified that she thought this was for the property damage to her vehicle.

Based on the testimony and evidence, we find no basis to overturn the trial court's judgment. The trial court's finding that the plaintiffs failed to prove liability on the part of Mr. Boshnack is not manifestly erroneous and is supported by the record.

### **CONCLUSION**

For the preceding reasons, we affirm the September 17, 2025 judgment of the trial court in favor of the defendants.

**AFFIRMED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
STEPHEN J. WINDHORST  
JOHN J. MOLAISSON, JR.  
SCOTT U. SCHLEGEL  
TIMOTHY S. MARCEL

JUDGES



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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 29, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink that reads "Curtis B. Pursell".

**CURTIS B. PURSELL**  
CLERK OF COURT

**25-CA-594**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE DONALD L. FORET (DISTRICT JUDGE)

DAVID C. JARRELL (APPELLANT)

JAMES L. DONOVAN, JR. (APPELLEE)

P. M. DONOVAN (APPELLEE)

PAUL D. OBERLE, JR. (APPELLEE)

**MAILED**

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