

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

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No. 25-CA-510

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MEB LOAN TRUST VIII, U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS  
INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE

*versus*

CATHERINE C. GLORIOSO AKA CATHERINE COCHRAN GLORIOSO AND MARK GLORIOSO  
AKA MARK ANTHONY GLORIOSO AND JORDAN'S OF JEFFERSON LLC

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ON APPEAL THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 864-278, DIVISION "N"  
HONORABLE STEPHEN D. ENRIGHT, JR., JUDGE PRESIDING

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May 14, 2026

**STEPHEN J. WINDHORST**  
**JUDGE**


Panel composed of Judges Marc E. Johnson,  
Stephen J. Windhorst, and Timothy S. Marcel

**VACATED AND REMANDED**

**SJW**  
**MEJ**

**CONCURS WITH REASONS**

**TSM**

TRUE COPY  
  
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DEPUTY CLERK

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## **WINDHORST, J.**

Appellant/plaintiff, MEB Loan Trust VIII, U.S. Bank Trust National Association, Not in its Individual Capacity but Solely as Trustee (“MEB Trust”), appeals the trial court’s August 6, 2025 judgment in favor of appellee/defendant, Mark Glorioso, and appellee/defendant, Jordan’s of Jefferson LLC (“Jordan’s”), granting their respective requests for preliminary injunction. For the following reasons, we vacate the trial court’s August 6, 2025 judgment and remand this case to the trial court for further proceedings.

### **PROCEDURAL HISTORY**

MEB Trust filed this executory process lawsuit against Catherine C. Glorioso and Mark Glorioso (“the Gloriosos”) and Jordan’s to enforce a promissory note and mortgage. The petition alleged that on August 23, 2002, the Gloriosos executed a promissory note, which was secured by a mortgage, encumbering property located at 3517 Kent Avenue, in Metairie, Louisiana (“the property”). The mortgage was reinscribed on April 11, 2023. The petition also alleged on April 18, 2022, the Gloriosos transferred their interest in the property to Jordan’s. The petition asserted that at the time of the conveyance, amounts were still due on the note and the mortgage, which neither the Gloriosos nor Jordan’s paid. The petition further alleged that “the obligors” defaulted on the note and mortgage by failing to pay the monthly installments as required by the note and mortgage and the obligors did not cure the default. The petition stated that MEB Trust was exercising its right to accelerate the entire indebtedness due on the note and mortgage, including the monthly installment due July 25, 2020, and all successive monthly installments. The petition prayed that a writ of seizure and sale issue to sell the property with appraisal and to issue payment due to MEB Trust from the proceeds.<sup>1</sup>

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<sup>1</sup> Attached to the petition were: (1) the promissory note dated August 23, 2002; (2) the recorded mortgage; (3) the sale of the property from the Gloriosos to Jordan’s; (4) the recorded reinscription of the mortgage; and (5) a sworn statement as to military service. They were not offered or admitted into evidence.

In response to the petition, Mark Glorioso filed a petition for preliminary and permanent injunction to arrest seizure and sale, asserting that the note was prescribed on its face, and therefore unenforceable.<sup>2</sup> Jordan's filed an answer and reconventional demand for preliminary injunction, permanent injunction, and declaratory judgment, concerning issues with the reinscription of the mortgage.<sup>3</sup> MEB Trust filed exceptions to Jordan's reconventional demand and an opposition to the requests for preliminary injunction.<sup>4</sup> The requests for preliminary injunction pursuant to La. C.C.P. art. 2298<sup>5</sup> filed by Mr. Glorioso and Jordan's were set for hearing on August 6, 2025.

During the preliminary injunction hearing, counsel argued their respective positions in favor of and against granting the preliminary injunction. The trial court heard no testimony, and no exhibits were introduced, offered, or admitted into evidence. At the conclusion of the hearing, the trial court granted Mr. Glorioso and Jordan's requests for preliminary injunction. This appeal followed.

## **DISCUSSION**

On appeal, appellant contends that the trial court erred as a matter of law in finding that (1) the note secured by the mortgage was prescribed on its face; (2) the reinscription of the mortgage was invalid; and (3) a bankruptcy discharge precludes the filing of an *in rem* foreclosure action.

We do not address the assignments of error raised by appellant because after a thorough review of the record, we find that no exhibits were properly and officially offered and admitted into evidence in support of or against the requests for preliminary injunction. The trial court stated that it granted the requests for

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<sup>2</sup> In his request for preliminary injunction, Mr. Glorioso referred to the note attached to MEB Trust's petition as exhibit A.

<sup>3</sup> Attached to Jordan's request for preliminary injunction were: (1) the mortgage; (2) the sale of the property from the Gloriosos to Jordan's; (3) reinscription of mortgage; and (4) the assignments of the mortgage. They were not offered or admitted into evidence at the hearing.

<sup>4</sup> MEB Trust's opposition referred to the exhibits filed with its petition for executory process.

<sup>5</sup> La. C.C.P. art. 2298 provides grounds for injunctive relief prohibiting the sheriff from proceeding with the sale of property seized under a writ of fieri facias.

preliminary injunction, “based on the [c]ourt’s review of the pleadings and the argument of counsel.” Because no exhibits were offered and admitted into evidence, we find the trial court erred in rendering its decision based on evidence not properly before the court.<sup>6</sup>

Although consideration of testimony and exhibits not admitted into evidence was not assigned as error in this case, the Louisiana Supreme Court and this court have routinely held that appellate courts may not consider evidence not properly admitted into evidence, whether the lack of admission into evidence was assigned as error or not. Quinn v. La. Citizens Prop. Ins. Corp., 12-152 (La. 11/2/12), 118 So.3d 1011; Freeman v. Ochsner Clinic Foundation, 20-283 (La. App. 5 Cir. 11/10/20), 307 So.3d 335, 338; Wood Materials, LLC v. City of Harahan, 17-142 (La. App. 5 Cir. 10/2/17), 228 So.3d 293, 295.

Exhibits not properly and officially offered and admitted into evidence cannot be considered, even if they are physically filed into the trial court record. Denoux v. Vessel Mgmt. Services, Inc., 07-2143 (La. 5/21/08), 983 So.2d 84, 88; Scheuermann v. Cadillac of Metairie, Inc., 11-1149 (La. App. 5 Cir. 5/31/12), 97 So.3d 423, 426. Except as otherwise provided by law, documents attached to memoranda do not constitute evidence and cannot be considered as such on appeal. Denoux, 983 So.2d at 88. Appellate courts are courts of record and may not review evidence that is not in the appellate record or receive new evidence. Id.; La. C.C.P. art. 2164.

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<sup>6</sup> La. C.C.P. art. 2298 explicitly provides that the procedural requirements for injunctions set forth in La. C.C.P. arts. 3601-3613, apply to injunctions issued under La. C.C.P. art. 2298. La. C.C.P. art. 3609 provides in pertinent part:

The court may hear an application for a preliminary injunction ... upon the verified pleadings or supporting affidavits, or may take proof as in ordinary cases. If the application is to be heard upon affidavits, the court shall so order in writing, and a copy of the order shall be served upon the defendant at the time the notice of hearing is served.

A review of the record indicates that the parties did not file verified pleadings, for the purpose of La. C.C.P. art. 3609, and the trial court did not order in writing, or provide notice, that the preliminary injunction was to be heard upon affidavits. Thus, it appears that the trial court intended to accept evidence as in ordinary cases. See Wood Materials, LLC, 228 So.3d at 295-296. Unfortunately, as stated herein, the parties failed to offer any exhibits or testimony into evidence.

In order to obtain injunctive relief provided under La. C.C.P. art 2298 and/or 3601, an applicant bears the burden of proving the existence of the factual elements or grounds required by those articles. Unless the provisions of La. C.C.P. art. 3609 have been properly invoked by the court, proof of those factual elements or grounds requires introduction of evidence sufficient to show that the applicant is entitled to the preliminary injunction relief he seeks. During argument at the preliminary injunction hearing, counsel for the parties referred to exhibits, but at no time did they move to admit any exhibits into evidence, and the trial court did not admit any exhibits into evidence. While there may be merit in the contention that reinscription of a mortgage after ten years and after a sale causes the sale to prime that mortgage, and consequently conveys clear title to the purchaser, the exhibits which might prove that sequence of events in this case were not admitted, so the trial court could not consider them, and nor can we. Consequently, we find the trial court erred in granting Mr. Glorioso and Jordan's requests for the preliminary injunction. Accordingly, we vacate the preliminary injunction issued by the trial court.

#### **DECREE**

For the foregoing reasons, the trial court's August 6, 2025 judgment is vacated, and the case is remanded to the trial court for further proceedings.

**VACATED AND REMANDED**

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

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No. 25-CA-510

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JEFFERSON LLC

**J. MARCEL, CONCURS WITH REASONS**

Respectfully, I concur with the decision to vacate the judgment of the trial court. La. C.C.P. art. 3609 requires that, if the trial court is to hear the preliminary injunction solely on the face of the verified pleadings and affidavits, the court must order so in writing. There is no such order evident in the record before us. I write separately to emphasize Mr. Glorioso's evidentiary burden in this case. Louisiana Courts recognize a distinction between "prohibitory" preliminary injunctions designed to preserve the status quo prior to a trial on the merits, and "mandatory" preliminary injunctions that seek court action or order, which are akin to permanent injunctions. *Smith v. St. John the Baptist Par.*, 24-491 (La. App. 5 Cir. 4/30/25), 412 So.3d 1122. These different types of injunctions have distinct evidentiary burdens: the party seeking a mandatory injunction must prove by a preponderance of the evidence that he is entitled to it. *Id.* On the other hand, prohibitory preliminary injunctions may be issued on a *prima facie* showing by the party seeking the injunction. *Saer v. New Orleans Reg'l Physician Hosp. Org.*, 14-856 (La.

App. 5 Cir. 3/25/15), 169 So.3d 617. For the purposes of the prohibitory preliminary injunction sought in this case, I agree with the trial court that Mr. Glorioso has met his burden of making a *prima facie* showing on the face of the verified pleadings,<sup>7</sup> and as such the status quo should be preserved until such time as the trial court has a full evidentiary hearing on the permanent injunction.

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<sup>7</sup> The pleadings appear to present an instance of a so-called “zombie mortgage.”

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 **MAY 14, 2026** 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

**25-CA-510**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE STEPHEN D. ENRIGHT, JR. (DISTRICT JUDGE)

ASHLEY E. MORRIS (APPELLANT)

EDWARD S. RAPIER, JR. (APPELLEE)

JESSE A. SCHUDMAK (APPELLEE)

RYAN M. MCCABE (APPELLEE)

LEIGH H. ROUSSEL (APPELLEE)

**MAILED**

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