

JASON FRANCO

NO. 25-C-120

VERSUS

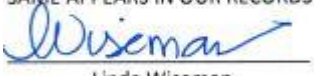
FIFTH CIRCUIT

WRIGHT & GRAY, LLC

COURT OF APPEAL

STATE OF LOUISIANA

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



Linda Wiseman
First Deputy, Clerk of Court

March 27, 2025

Linda Wiseman
First Deputy Clerk

IN RE WRIGHT & GRAY, LLC

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE DONALD A.
ROWAN, JR., DIVISION "L", NUMBER 843-585

Panel composed of Judges Jude G. Gravois,
Stephen J. Windhorst, and Timothy S. Marcel

WRIT GRANTED

In this wage-claim suit, Relator Wright & Gray, LLC, seeks supervisory review of a March 12, 2025 order of the trial court that amended bond previously set for relator's suspensive appeal following a January 30, 2025 judgment on the merits rendered in favor of plaintiff, Philip A. Franco, in his capacity as Independent Administrator of the Succession of Jason Philip Franco. The January 30 judgment awarded plaintiff \$407,602.59 in damages for unpaid wages and statutory penalties. On March 5, 2025, Wright & Gray filed a motion for suspensive appeal. The order for suspensive appeal signed on March 10, 2025 granted the motion and set the bond amount at \$125,000.

On March 12, 2025, Franco filed an *ex parte* Motion to Amend the Order for Suspensive Appeal on the basis that La. C.C.P. art. 2124 does not allow for bonds to be set lower than the amount of a money judgment. On the same day, Wright & Gray filed a bond in the amount of \$125,000. The trial judge signed the order amending the order for suspensive appeal to set the amount of the bond to "\$407,602.59 + judicial interest." Wright & Gray also filed on March 14, 2025, a motion asking the trial court to set a contradictory hearing on the Motion to Amend, which the court denied as moot. Wright & Gray seek supervisory review of the trial court's granting of the Motion to Amend and subsequent denial of their motion to set for contradictory hearing.

Relator argues that the trial court erred by signing the *ex parte* Motion to Amend; however, La. C.C.P. art. 963 allows the trial court to grant *ex parte* orders without hearing the adverse party if the order applied for by written motion is one

to which the mover is clearly entitled without supporting proof. Such is the case here.

La. C.C.P. art. 2124 states in pertinent part:

B. The security to be furnished for a suspensive appeal is determined in accordance with the following rules:

(1) When the judgment is for a sum of money, the amount of the security shall be equal to the amount of the judgment, including the interest allowed by the judgment to the date the security is furnished, exclusive of the costs.

There is no provision in the law that allows the trial court to set the bond amount lower than the amount of the money judgment. The March 10 order setting the bond at \$125,000 was therefore null, and the posting of the \$125,000 by Wright & Gray did not perfect the appeal and had no effect on the trial court's jurisdiction. In this case, Franco was entitled to have the bond set in the amount of the money judgment, and therefore the filing of the *ex parte* motion was proper.

This court is nevertheless concerned with the indefinite language used by the court in its amended order of suspensive appeal. "\$407,602.59 + judicial interest" is not a definite amount ascertainable without reference to sources outside the face of the order. We therefore grant this writ for the purpose of instructing the trial court to hold a contradictory hearing for the purposes of ascertaining an exact amount at which the bond is to be set in accordance with La. C.C.P. art. 2124 and to amend its March 12 order accordingly.

Gretna, Louisiana, this 27th day of March, 2025.

TSM
JGG
SJW

SUSAN M. CHEHARDY
CHIEF JUDGE

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

JUDGES



FIFTH CIRCUIT
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CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. WISEMAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

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(504) 376-1498 FAX

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CURTIS B. PURSELL
CLERK OF COURT

25-C-120

E-NOTIFIED

24th Judicial District Court (Clerk)

Honorable Donald A. Rowan, Jr. (DISTRICT JUDGE)

P. M. Donovan (Respondent)

Allen C. Miller, Sr. (Relator)

W. J. LeBlanc, Jr. (Relator)

Rebecca Sha (Relator)

Stephanie M. Poucher (Relator)

MAILED

Scott E. Delacroix (Respondent)

Attorney at Law

321 North Vermont Street

Suite 105

Covington, LA 70433

David I. Courcelle (Respondent)

Attorney at Law

3500 North Causeway Boulevard

Suite 185

Metairie, LA 70002

Clerc H. Cooper (Relator)

Attorney at Law

365 Canal Street

Suite 2000

New Orleans, LA 70130

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Covington, LA 70433
25-C-120

03-27-25

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1 David I. Courcelle
 Attorney at Law
 3500 North Causeway Boulevard
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