

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

No. 26-C-105

ANGELLE MCCALLON

versus

URIEL MARTINEZ SALAZAR

IN RE LOYA INSURANCE COMPANY
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
FRANK A. BRINDISI, DIVISION "E", No. 866-856

TRUE COPY

March 18, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges John J. Molaison, Jr.,
Scott U. Schlegel, and Timothy S. Marcel

WRIT DENIED

This case concerns an August 14, 2024 car accident. Loya Insurance Company, as defendant, seeks supervisory review of the February 25, 2026, judgment denying its peremptory exception of no right of action. We deny this writ application for the following reasons.

The determination of whether a plaintiff has a right of action is a question of law; thus, we review the trial court's ruling *de novo*. *Riley v. Acadian Companies*, 25-308, (La. App. 5 Cir. 9/3/25), 424 So.3d 141, 146, *writ denied*, 25-1253 (La. 12/9/25), 422 So.3d 298.

Loya filed its exception of no right of action in response to the amended petition for damages filed by the plaintiff, Angelle McCallon, on October 13, 2025, in which the plaintiff named Loya as a defendant. In the exception, Loya contends

that the newly amended language of the Direct-Action Statute, La. R.S. 22:1269, provides that the injured person shall have no right of action against the insurer unless certain conditions are met. One such condition is unsuccessful service of the petition on the insured tortfeasor. Loya contends that McCallon cannot invoke this exception because McCallon failed to provide a complete address for service of the petition on the driver of the insured vehicle. We disagree.

La. R.S. 22:1269(B)(1)(c) provides in pertinent part that a plaintiff may have a right of action against an insurer directly if “[s]ervice of citation or other process has been attempted without success. . .”. Here, McCallon requested service on the driver of the insured vehicle using the address contained in the crash report. The sheriff’s return on service states that service was not completed because a building or apartment number was needed. Loya contends that this exception does not apply because McCallon did not provide an accurate address for service.

The language of the amended Direct-Action Statute is clear and unambiguous—if a plaintiff has attempted to serve the tortfeasor without success, then that plaintiff has a right of direct action against the insurer. *Vajas v. Morris*, 25-0675 (La. App. 4 Cir. 11/12/25), 424 So.3d 847, 850.

In this case, McCallon attempted to serve the tortfeasor at the address provided in the crash report, which contains only a street address and does not contain a building number or an apartment number. Thus, under the plain wording of the statute, the plaintiff McCallon has a right to add Loya to this lawsuit. Accordingly, we deny this writ application.

Gretna, Louisiana, this 18th day of March, 2026.

JJM
SUS
TSM

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
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **03/18/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-C-105

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Frank A. Brindisi (DISTRICT JUDGE)
Andrew R. Capitelli (Relator)

MAILED

Katherine Q. Schaumburg (Respondent)
Lauren A. Favret (Respondent)
Seth H. Schaumburg (Respondent)
Attorneys at Law
1555 Poydras Street
Suite 1600
New Orleans, LA 70112

Kenneth R. Whittle (Relator)
Attorney at Law
220 Girod Street
Mandeville, LA 70448