# Fifth Circuit Court of Appeal
# State of Louisiana

No. 26-C-323

COREY MANSON

versus

DUSTIN FAUST AND EDGEWATER OUTBOARDS, LLC

**IN RE** PROGRESSIVE PALOVERDE INSURANCE COMPANY
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE LEE V. FAULKNER, JR., DIVISION "P", NUMBER 806-976



August 21, 2026

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Marc E. Johnson

**WRIT DENIED**

Relator, Progressive Paloverde Insurance Company ("Progressive"), seeks review of the 24th Judicial District Court's May 15, 2026 ruling finding Plaintiff's, Corey Manson, claims had not prescribed.

In June 2020, Mr. Manson filed a lawsuit and alleged named defendants Dustin Faust and Edge Water Outboards, LLC ("Edge Water") were responsible for property damage caused by a June 10, 2019 motor vehicle accident.

Plaintiff filed a First Amended and Supplemental Petition for Damages adding Progressive, Edge Water employee Ruel Smith, and others as defendants on December 19, 2025. Plaintiff alleged the accident occurred as Mr. Smith was taking the boat and trailer Mr. Manson brought in for repairs to another Edge Water location, during the course and scope of his employment. Progressive avers that, as early as August 2019, it advised Plaintiff and its insured, Mr. Smith, that because of applicable coverage exclusions, there could be no solidary liability between Progressive and Mr. Smith.

In March 2026, Progressive filed an exception which argued Plaintiff's claims against the company had prescribed and should be dismissed with prejudice. At the hearing, Progressive entered into evidence the exception's attachments: the original petition and first amended and supplemental petitions, letters, dated August 16, 2019, addressed to Mr. Manson and Mr. Smith advising that Progressive would not provide coverage for the incident, and Mr. Smith's auto insurance policy coverage summary. After the hearing on the exception, the trial court overruled the peremptory exception of prescription (memorialized in its June 16, 2026 written judgment).

In its application, Progressive argues that the originally named defendants have no relationship or connection with the company and therefore it cannot be considered solidarily liable with those defendants. Further, it urges that it validly denied coverage of Plaintiff's claims in 2019, and Plaintiff never challenged its determination, so it is not solidarily liable with its insured Mr. Smith in this instance. Thus, Progressive avers that Plaintiff has not shown how prescription of his claims asserted in the 2020 original petition against the company was interrupted or suspended. Mr. Manson's counterargument, presented at the hearing on the exception, is the amended petition is timely because

Progressive and Mr. Smith are solidarily liable with original named defendant Edge Water; therefore, the amended petition relates back to the date of the original petition. Further, he urges there are "factual ambiguities" regarding the alleged lack of relationship among the would-be parties, and the commercial clause of Mr. Smith's policy with Progressive, that preclude a determination at this point that Progressive is not liable for the damages sustained in the subject incident.

An exception of prescription is a type of peremptory exception. The function of the peremptory exception is to have the plaintiff's action declared legally nonexistent, or barred by the effect of law, and hence this exception tends to dismiss or defeat the action. *Ruffins v. HAZA Foods of Louisiana, LLC*, 21-619 (La. App. 5 Cir. 5/25/22), 341 So.3d 1259, 1262–63. Ordinarily, the exceptor bears the burden of proof at the trial of the peremptory exception, including prescription. *Id.* However, if prescription is evident on the face of the pleadings, the burden shifts to the plaintiff to show that the action has not prescribed. *Id.* When a cause of action is prescribed on its face, the burden is upon the plaintiff to show that the running of prescription was suspended or interrupted in some manner. *Id.* When evidence is introduced at a hearing on an exception of prescription, the trial court's findings of fact are reviewed under the manifest error standard. *Id.*

Prescription may be interrupted if there is (1) solidary liability with a named defendant and a party affected, or (2) if a person, although not originally impleaded, is affected by the cause of action involved, is closely associated with a named and cited defendant and is or should be fully informed of the claim and suit thereon[.] *Commercial Union Ins. Co. v.*

*Bringol*, 262 So.2d 532, 536 (La. App. 4th Cir. 1972). The employer and employee are solidarily liable as to the victim. *Etienne v. Nat'l Auto. Ins. Co.*, 99-2610 (La. 4/25/00), 759 So.2d 51, 56–57. Further, an insurer is solidarily liable with its insured. *Wimberly v. Brown*, 07-559, p. 5 (La. App. 5 Cir. 11/27/07), 973 So.2d 75, *citing Id.* at 56; La. C.C. arts. 1799 and 3503.

Solidary liability must be proved by the party who asserts it; it is not presumed. *Rivnor Properties v. Herbert O'Donnell, Inc.*, 633 So.2d 735, 748 (La. App. 5th Cir. 1994), *writ denied,* 94-1293 (La. 9/2/94), 643 So.2d 147, and *writ denied,* 94-1305 (La. 9/2/94), 643 So.2d 147. An obligation is solidary for the obligors when each obligor is liable for the whole performance of the obligation. A performance rendered by one of the solidary obligors relieves the others of liability toward the obligee. *Id.*; La. C.C. art. 1794. It is the coextensiveness of the obligations for the same debt, and not the source of liability, which determines the solidarity of the obligation. *Rivnor*, *supra*, *citing Weber v. Charity Hospital of Louisiana,* 475 So.2d 1047 (La. 1985). When "a policy has specific language limiting the liability of the insurer, the insurer may only be found to be solidarily liable up to the policy limits." *Lebato v. Safeway Ins. Co.*, 03-0131, p. 3 (La. App. 3 Cir. 6/4/03), 852 So.2d 446, 448.

We find that the district court did not err when it overruled Progressive's peremptory exception of prescription. We find that Edge Water and Mr. Smith are solidarily liable as employer and employee. Further, the original suit filed by Mr. Manson named Edge Water as a defendant – therefore, prescription was interrupted as to Ruel Smith, Edge Water's employee, and we disagree with Progressive's assertion that prescription had run against Ruel Smith. Likewise, Mr. Smith and Progressive are solidarily liable, as insured and insurer. Because Edge Water, Mr. Smith, and Progressive are potentially liable to Mr. Manson for damages, each are solidarily liable to the others. Suit against one solidary obligor interrupts prescription as to all solidary obligors, La. C.C. art. 3503.

On the showing made, upon review of Mr. Smith's insurance coverage summary, we cannot determine whether the policy issued by Progressive affords no coverage of the damages sustained to both Mr. Manson's boat and trailer. Progressive remains solidarily liable to the extent of the policy limits in the absence of a judgment finding the policy it issued to Mr. Smith provides no coverage in this instance and it is without obligation to the plaintiff, Mr. Manson. *See Lebato*, *supra*. Further, "[w]hile the allegation of solidary liability is pending, the exception of prescription remains premature." *Etienne v. Nat'l Auto. Ins. Co.*, 99-2610, p. 7 (La. 4/25/00), 759 So.2d 51. Finally, the Court declared that La. C.C.P. art. 1153 is inapplicable to the situation where a plaintiff has timely sued and correctly named at least one solidary obligor, so we pretermit further discussion of Relator's arguments regarding the amendments' relation back to the filing date of the original petition. *See id.* at 56-57.

Accordingly, the writ is denied.

Gretna, Louisiana, this 21st day of August, 2026.

**MEJ**
**SMC**
**JGG**

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## 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 **08/21/2026** 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-323

**E-NOTIFIED**

24th Judicial District Court (Clerk)
Hon. Lee V. Faulkner, Jr. (DISTRICT JUDGE) Darrin L. Forte (Relator)
Ryan E. Bergeron (Relator)
Landis S. Prestigiacomo (Relator)
Pius A. Obioha (Respondent)
Cameron M. Mary (Respondent)