

Fifth Circuit Court of Appeal State of Louisiana

No. 26-C-50

ANTHONY PLAIER

versus

WASTE CONNECTIONS BAYOU, INC. AND ACE AMERICAN
INSURANCE COMPANY

IN RE WASTE CONNECTIONS BAYOU, INC. AND ACE AMERICAN INSURANCE
COMPANY
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", No. 850-963

TRUE COPY

February 03, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Stephen J. Windhorst,
John J. Molaison, Jr., and Timothy S. Marcel

WRIT GRANTED

The defendants and relators, Waste Connections Bayou, Inc. and Ace American Insurance Company, ask this Court to review the trial court's February 2, 2026 judgment. The trial court granted the plaintiff's Motion for Sanctions and struck the defendants' answer and affirmative defenses from the record. As a result, the court treated the defendants as if they had never appeared on the record and barred them from participating in the trial.

La. C.C.P. art. 1471 allows dismissal of an action as a sanction for failure to comply with discovery orders. In *Horton v. McCary*, 93-2315 (La. 4/11/94), 635 So.2d 199, the Supreme Court enunciated four factors to consider before taking the drastic measure of dismissal: (1) whether the violation was willful or resulted from inability to comply; (2) whether less drastic sanctions would be effective; (3) whether the violations prejudiced the opposing party's trial preparation; and (4) whether the client participated in the violation or simply misunderstood a court order or innocently hired a derelict attorney. *Id.* at 203. Nevertheless, our Supreme Court stated the penalties of dismissal and default provided by Article 1471 are "draconian penalties which should be applied only in extreme circumstances." *Id.*

The trial court has broad discretion to choose a remedy under La. C.C.P. art. 1471, but the record must show clear evidence of willful disobedience, bad faith, or fault to justify dismissal. The trial court abuses its discretion if it dismisses a case under article 1471 without evidence of a party's fault; showing only the attorney's fault is not enough. See *Brumfield v. Lallie Kemp Charity Hosp.*, 551 So.2d 741, 742 (La. App. 1 Cir. 1989).

Based on the application and opposition presented, we do not find clear evidence of bad faith or willful disobedience of supporting the sanction imposed by the trial court. Although we do not address whether a lesser sanction might be appropriate, we conclude that the trial court abused its discretion by striking the

Defendants' Answer and Affirmative Defenses. Therefore, we grant the writ application and vacate the trial court's February 2, 2025 order in its entirety. We remand the matter for further proceedings.

Gretna, Louisiana, this 3rd day of February, 2026.

JJM
SJW
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



CURTIS B. PURSELL

CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

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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 02/03/2026 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-50

E-NOTIFIED

24th Judicial District Court (Clerk)

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

Jacob K. Best (Relator)

Guice A. Giambrone, III (Relator)

Megan C. Kiefer (Respondent)

Michelle M. Davis (Respondent)

Ivana Dillas (Relator)

Anna M. Singleton (Respondent)

Lou Anne Milliman (Respondent)

MAILED

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