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SUPREME COURT OF LOUISIANA

No. 11-C-0051

HENRY ADAM BALTAZAR, ET AL.

VERSUS

DENNIS R. WOLINSKI, ET AL.

*ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, THIRD CIRCUIT
PARISH OF ST. MARTIN*

PER CURIAM*

Although there is no direct evidence to support the approximately \$164,000.00 Intervenor claims as owing pursuant to a worker's compensation lien, and no evidence of a stipulation to that amount, Plaintiff's counsel prayed in the trial court "that Intervenor be paid \$33,250.84 out of net proceeds for its total intervention." This prayer evidences an acknowledgment by Plaintiff that this lesser amount, i.e., \$33,250.84, could be substantiated by the Intervenor and was owing. When the court of appeal completely nullified the award to the Intervenor, the court of appeal gave no effect to Plaintiff's earlier acknowledgment and granted Plaintiff relief never sought in the trial court. See Rule 1-3 of the Uniform Rules-Courts of Appeal ("The Courts of Appeal will review only issues which were submitted to the trial court and which are contained in specifications or assignments of error."). We reverse the ruling of the court of appeal and render judgment in the amount of \$33,250.84 to be deducted from plaintiff's damages award, and which amount shall be apportioned as \$22,167.23 to intervenor, and

*Kimball, C.J. not participating in the decision.

\$11,083.61 to plaintiff's counsel. See LSA-R.S. 23:1103(C)(1). In all other respects, the judgment of the court of appeal is affirmed. **WRIT GRANTED.**