

02/18/2019 "See News Release 008 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 2018-CC-1604

IBERIABANK

VERSUS

**WESTCHESTER APARTMENTS, L.L.C., KEVIN U.
STEPHENS, AND CHERYLL BOWERS STEPHENS**

**ON SUPERVISORY WRITS TO THE 24TH JUDICIAL DISTRICT,
PARISH OF JEFFERSON**

GENOVESE, J., would grant this writ for the following reasons:

I fully agree with the well-reasoned dissent of Judge Windhorst. Additionally, I find the trial court abused its discretion in not separating, addressing, and granting Iberia Bank's Motion for Summary Judgment.

This is a suit on a note by the bank against the defendants. Defendants claim abuse of rights and lack of good faith. There are no genuine issues of material fact as to the principal demand. The note has become due and remains unpaid. The bank filed a Motion for Summary Judgment. In their answer, defendants did file affirmative defenses and a reconventional demand, which were totally unrelated to the promissory note due and owing. Defendants failed to provide factual evidence supporting its affirmative defenses and reconventional demand. More importantly, defendants failed to produce any factual evidence of any defense to the promissory note that would preclude summary judgment. Consequently, the bank has been "hung out to dry" while waiting for unrelated incidental demands to be litigated. This defeats the intent and spirit of summary judgment, creates unnecessary delay, and protracts litigation.

I would grant the writ, reverse the lower courts' denial of summary judgment, and grant Iberia Bank's Motion for Summary Judgment.