

The Supreme Court of the State of Louisiana

LINDA JILL MAHE

VS.

No. 2023-CC-00025

LCMC HEALTH HOLDINGS LLC D/B/A WEST
JEFFERSON MEDICAL CENTER, CULICCHIA
NEUROLOGICAL CENTER, LLC, K. DAVID
KHOUBEHI, M.D. AND BRIDGEPOINT
CONTINUING CARE CENTER

IN RE: BridgePoint Healthcare Louisiana, LLC d/b/a BridgePoint Continuing Care
Hospital - Applicant Defendant; Applying For Supervisory Writ, Parish of Orleans
Civil, Civil District Court Number(s) 2021-7304, Court of Appeal, Fourth Circuit,
Number(s) 2022-C-0718;

March 14, 2023

Writ application granted. See per curiam.

JTG

JDH

SJC

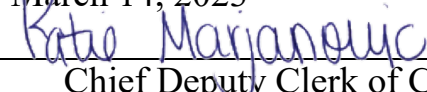
WJC

JBM

Weimer, C.J., would grant and docket.
Griffin, J., would deny.

Supreme Court of Louisiana

March 14, 2023



Chief Deputy Clerk of Court
For the Court

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VS.

LCMC HEALTH HOLDINGS LLC D/B/A WEST JEFFERSON MEDICAL CENTER, CULICCHIA NEUROLOGICAL CENTER, LLC, K. DAVID KHOUBEHI, M.D. AND BRIDGEPOINT CONTINUING CARE CENTER

On Supervisory Writ to the Civil District Court, Parish of Orleans Civil

PER CURIAM

Granted. The issue we are to decide in this summary judgment proceeding is whether the trial court can grant a continuance of the matter, after plaintiff failed to timely file her opposition within the mandated fifteen-day time period set forth in La. Code Civ. P. art. 966(B)(2).

Louisiana Code of Civil Procedure article 966(C)(2) provides: “For good cause shown, the court may order a continuance of the hearing.” In this case, plaintiff failed to timely file her opposition within the fifteen-day time period and sought a continuance of the hearing on defendant’s motion for summary judgment the day before the hearing. Plaintiff’s excuse for not filing the opposition earlier was that her expert was “out of town.” The trial court judge then continued the matter stating he wanted to “have the substance” of the opposition.¹ The court of appeal denied writs without substantive reasons.

As we specifically stated in *Auricchio v. Harriston*, 2020-01167, p. 5 (La. 10/10/21), 332 So. 3d 660, 663, these time limits are mandatory. La. Code Civ. P. art. 966(B)(2) states that “the opposition **shall** be filed and served in

¹ In granting plaintiff’s continuance, the district court implicitly found good cause under La. Code Civ. P. art. 966(C)(2).

accordance with Article 1313 not less than fifteen days prior to the hearing on the motion.” (emphasis supplied). A continuance under La. Code Civ. P. art. 966(C)(2) cannot serve as a pretext to circumvent the deadlines set forth in La. C.C.P. art. 966(B)(2).²

The plaintiff argued the fact that her expert was out of town constituted “good cause” for a continuance, but she failed to move for a continuance prior to the expiration of the fifteen-day deadline. Under these circumstances, plaintiff’s excuse does not constitute good cause.

As a result, the trial court erred in granting plaintiff’s motion for a continuance in order to consider an untimely filed opposition; and, the appellate court erred in denying writs in this matter. Accordingly, we reverse the lower courts, deny the continuance, and remand the matter to the trial court to conduct a hearing on defendant’s motion for summary judgment without consideration of plaintiff’s untimely filed opposition.

² Notably, there have been substantive revisions to La. Code Civ. P. art. 966. However, the long-held tenet that good cause does not exist when a continuance is granted solely to allow the consideration of untimely filed pleadings or other summary judgment evidence remains true. *See e.g. Newsome v. Homer Memorial Med. Center*, 2010-0564 (La. 4/9/10), 32 So.3d 800 (plaintiff failed to establish good cause for continuing the summary judgment hearing solely for the purpose of considering an untimely affidavit); and *Sims v. Hawkins-Sheppard*, 2011-0678 (La. 7/1/11), 65 So.3d 154 (plaintiff failed to show good cause for a continuance to consider an untimely affidavit due to a three-day holiday and the medical expert being on vacation).