

Fifth Circuit Court of Appeal
State of Louisiana

No. 26-C-6

ALL STAR PREMIER HOMES, LLC

versus

THE PARISH OF JEFFERSON ET AL

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE TWENTY-FOURTH JUDICIAL
DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
No. 799-048, DIVISION "G"
HONORABLE E. ADRIAN ADAMS, JUDGE PRESIDING

January 16, 2026

SUSAN M. CHEHARDY
CHIEF JUDGE

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Timothy S. Marcel

WRIT GRANTED, EXCEPTION OF NO
CAUSE OF ACTION SUSTAINED,
CLAIMS DISMISSED WITH PREJUDICE,
REQUEST FOR STAY DENIED AS MOOT

SMC
JGG
TSM



COUNSEL FOR PLAINTIFF/RESPONDENT,
ALL STAR PREMIER HOMES, LLC

Jarred P. Bradley

COUNSEL FOR DEFENDANT/RELATOR,
THE HONORABLE JON A. GEGENHEIMER, CLERK OF COURT
FOR JEFFERSON PARISH

Philip A. Franco

Diana C. Surprenant

CHEHARDY, C.J.

Relator, Jon Gegenheimer, as Clerk of Court for Jefferson Parish (“the Clerk”), seeks expedited supervisory review of the trial court’s ruling denying an exception of no cause of action, as trial is set to begin January 26, 2026. For the reasons that follow, we grant the writ application, reverse the trial court’s judgment, and dismiss with prejudice respondent’s claims against the Clerk.

Relator’s request for a stay is denied as moot.

Background and Procedural History

The underlying issue in this case involves an ownership dispute over property located in Grand Isle, Louisiana, after the property was purchased at a tax sale. Plaintiff-respondent, All Star Premier Homes, LLC, sued numerous defendants, including the Clerk, seeking a declaratory judgment that All Star is the owner of the property. All Star also seeks damages from the Clerk allegedly incurred from All Star’s loss of the property because of the Clerk’s alleged negligence. All Star contends the Clerk “has a duty to keep true and accurate records, but negligently allowed the Harpers to file a Non-Warranty Cash Sale after the purchase by [All Star].”

The Clerk filed a peremptory exception of no cause of action, arguing that as a matter of law, the Clerk cannot determine whether records are “accurate” without deciding who the owner of the property is, yet the Clerk owes no duty to All Star to determine property ownership. The Clerk’s only duty, he argued, is to accurately record and store the official records filed pursuant to La. C.C.P. art. 251 and La. C.C. art 3346.¹ Further, Louisiana law provides that records filed with the Clerk

¹ La. C.C.P. art. 251(A) states, in relevant part:

The clerk of court is the legal custodian of all of its records and is responsible for their safekeeping and preservation. He may issue a copy of any of these records, certified by him under the seal of the court to be a correct copy of the original. Except as otherwise provided by law, he shall permit any person to examine, copy, photograph, or make a memorandum

are not presumed to be valid or genuine. *See* La. C.C. art. 3341(1) (stating that the recordation of an instrument does not create a presumption that the instrument is valid or genuine). Although a Clerk may refuse to record documents that are not in proper notarial form, this has no bearing on the substantive validity of a document.

Additionally, the Clerk contends that the allegations that the Parish of Jefferson collected property taxes from two different title chains on the property cannot be imputed to the Clerk, as the Clerk is a separate juridical entity and was not responsible for collecting those taxes. The Clerk further argued he is immune from liability under La. R.S. 9:2798.1, because any determination as to true ownership would be a discretionary function to which the immunity doctrine applies. Finally, the Clerk argued he has no interest in who owns the property and thus is not an indispensable party to the litigation.

In opposition, All Star argues that the allegations in its petition and amended petitions were more than sufficient to state a cause of action against the Clerk. All Star suggests that the Clerk engaged in “a classic ministerial failure in the maintenance, preservation, and indexing of permanent public records” and that the Clerk “maintained and perpetuated inaccurate, irreconcilable property records, resulting in a clouded title, impaired alienability, and confusion in downstream governmental functions.” All Star then cites statutory law outlining the Clerk’s ministerial and custodial duties. All Star argues that its allegations “do not ask the Clerk to choose between owners, interpret the legal effect of a sale, or resolve a title dispute. They assert that the Clerk maintained an inaccurate and irreconcilable public record, ... the kind of administrative task Louisiana law defines as ministerial.”

of any of these records at any time during which the clerk's office is required by law to be open. ...

La. C.C. art. 3346 B states: “The recorder shall maintain in the manner prescribed by law all instruments that are recorded with him.”

After a hearing, the trial court denied the exception of no cause of action without reasons. The Clerk now seeks review of that ruling.

Discussion

We review the denial of a peremptory exception of no cause of action *de novo*. *Scanlan v. MBF of Metairie, LLC*, 21-323 (La. App. 5 Cir. 3/23/22), 337 So.3d 562, 565. The purpose of an exception of no cause of action is to question whether the law extends a remedy to anyone under the factual allegations of the petition. *NOLA 180 v. Treasure Chest Casino, LLC*, 11-853 (La. App. 5 Cir. 3/27/12), 91 So.3d 446, 449. An exception of no cause of action is tried solely on the face of the petition. *Id.* No evidence may be introduced to support or oppose the exception. La. C.C.P. art. 931. All well pleaded facts are accepted as true. *Ramey v. DeCaire*, 03-1299 (La. 3/19/04), 869 So.2d 114, 118.

The sole allegations against the Clerk may be found in paragraph 17 of All Star's original Petition, and paragraph 33 of All Star's Fourth Amended Petition. Paragraph 17 states: "The Jefferson Clerk has a duty to keep true and accurate records, but negligently allowed the Harpers to file a Non-Warranty Cash Sale after the purchase by [All Star]." Paragraph 33 states: "The remaining defendants, ... Parish of Jefferson Clerk of Court, ... owed statutory and constitutional duties to [All Star]. These duties included maintaining accurate property records, avoiding dual taxation, and ensuring clarity in property ownership. Their breaches, including failing to prevent dual assessments and accurately record[ing] property transactions, were the direct and proximate causes of the financial, legal, and property damage sustained by [All Star]."

The allegations against the Clerk arise in negligence. In general, to prove a claim in negligence under La. C.C. art. 2315, the plaintiff must satisfy five elements under the duty-risk analysis: (1) the defendant had a duty to conform his conduct to the appropriate standard of care (duty element); (2) the defendant failed

to conform to that duty (breach element); (3) the defendant's substandard conduct was a cause-in-fact of the plaintiff's injuries (cause-in-fact element); (4) the defendant's substandard conduct was a legal cause of plaintiff's injuries (scope of protection argument); and (5) actual damages (damages element). *Emile v. Regal Remodelers, L.L.C.*, 23-174 (La. App. 5 Cir. 1/31/24), 380 So.3d 696, 703.

The existence of a duty is a question of law. *Farrell v. Circle K Stores, Inc.*, 22-849 (La. 3/17/23), 359 So.3d 467, 474. The inquiry is whether the plaintiff has any law (statutory, jurisprudential, or arising from general principles of fault) to support the claim that the defendant owed him a duty. *Id.* Without a duty, there can be no liability. *Burdis v. Lafourche Parish Police Jury*, 542 So.2d 117, 119 (La. App. 1st Cir. 1989).

We find the trial court erred as a matter of law in refusing to sustain the exception of no cause of action and dismiss All Star's claims against the Clerk. Contrary to All Star's arguments, La. Const. Art. V, § 28 and La. R.S. 35:2 fail to establish a duty of the Clerk to maintain "accurate" records by assessing true property ownership. Although All Star contends it is not asking the Clerk to determine ownership, it fails to explain how a Clerk can determine the validity of property-related filings without doing so. The Clerk instead has a responsibility to keep and preserve all filings under La. C.C.P. art. 251 and to maintain *accurate* records, not to determine their validity at law vis-à-vis other potentially conflicting records. La. R.S. 35:12 further states that the Clerk may turn away filings that are procedurally deficient, such as failing to include the full names of the notary or parties, but that statute does not establish a duty to determine the substantive validity of a document. That responsibility belongs to the judiciary, not the Clerk.

All Star's petition and four amended petitions never suggest that the Clerk failed to maintain and preserve the relevant records pursuant to La. C.C.P. art. 251, or that those records could not be located through an appropriate search. Finding

no duty exists, there is also no basis for permitting All Star to amend its petition for a fifth time in an effort to state a cause of action against the Clerk.² La. C.C.P. art. 934. *See also Girtley v. ACE American Ins. Co.*, 15-397 (La. App. 5 Cir. 12/9/15), 182 So.3d 351, 356. Finally, because the Clerk has no interest in the subject of this litigation and is not otherwise affected by its outcome, we find the Clerk is not a necessary party to these proceedings under La. C.C.P. art. 641.

CONCLUSION

The trial court erred in overruling the Clerk's exception of no cause of action. We grant the writ, sustain the exception of no cause of action filed by Jon Gegenheimer, Clerk of Court for Jefferson Parish, and dismiss with prejudice All Star's claims against the Clerk. Relator's request for a stay is denied as moot.

**WRIT GRANTED, EXCEPTION OF NO
CAUSE OF ACTION SUSTAINED,
CLAIMS DISMISSED WITH PREJUDICE,
REQUEST FOR STAY DENIED AS MOOT**

² Additionally, trial is scheduled to begin January 26, 2026.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED
IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY
JANUARY 16, 2026 TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES
NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-C-6

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE E. ADRIAN ADAMS (DISTRICT JUDGE)

JARRED P. BRADLEY (RESPONDENT)	DIANA C. SURPRENANT (RELATOR)
IRL R. SILVERSTEIN (RESPONDENT)	LUKE F. PIONTEK (RESPONDENT)
KENNETH C. FONTE (RESPONDENT)	STEVEN M. MAUTERER (RESPONDENT)

PHILIP A. FRANCO (RELATOR)
JOHN T. BALHOFF, II (RESPONDENT)

MAILED

W. JARED VINCENT (RESPONDENT)
ATTORNEY AT LAW
143 METAIRIE HEIGHTS AVENUE
METAIRIE, LA 70001

JACK M. CAPELLA (RESPONDENT)
ATTORNEY AT LAW
3421 NORTH CAUSEWAY BOULEVARD
SUITE 105
METAIRIE, LA 70002

KEITH M. DETWEILER (RESPONDENT)
ATTORNEY AT LAW
3838 NORTH CAUSEWAY BOULEVARD
SUITE 2850
METAIRIE, LA 70002