

RENAE BAKER

NO. 25-C-259

VERSUS

FIFTH CIRCUIT

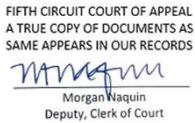
KEVIN BAKER

COURT OF APPEAL

STATE OF LOUISIANA

June 16, 2025

Morgan Naquin
Deputy Clerk



IN RE RENAE BAKER

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-NINTH JUDICIAL DISTRICT COURT, PARISH OF ST CHARLES, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE ROCHELLE C. FAHRIG, DIVISION "D", NUMBER 90,788

Panel composed of Judges Fredericka Homberg Wicker,
John J. Molaison, Jr., and Timothy S. Marcel

WRIT DENIED

The relator, Renae Baker, and the respondent, Kevin Baker, are a divorced couple in the process of dividing their former community property. Ms. Baker filed a petition for a partition of community property on November 20, 2024. On November 26, 2024, the trial court ordered Mr. Baker to file his sworn detailed descriptive list (DDL) of all community property within 45 days from the service of Ms. Baker's petition. He failed to do so. On March 25, 2025, Ms. Baker filed a rule to show cause why her DDL should not be a judicial determination of the former community's assets and liabilities. Mr. Baker finally filed his own DDL on April 30, 2025, and also opposed Ms. Baker's rule on the basis that her DDL was inaccurate and incomplete.¹ The trial court denied Ms. Baker's rule to show cause after a hearing on May 6, 2025. This timely writ application followed.

Ms. Baker argues that the trial court erred by refusing to automatically adopt her DDL after Mr. Baker failed to file his list within 45 days of being served with her petition. She argues that the procedure in La. R.S. 9:2801 resolves the issue, which states in part:

(1)(a) Within forty-five days of service of a motion by either party, each party shall file a sworn detailed descriptive list of all community property, the fair market value and location of each asset, and all

¹ Mr. Baker argued in his opposition brief that he had been hindered in completing his own DDL because Ms. Baker had "sole control over the vast majority of relevant documents" that were not produced by her in response to past discovery requests. He also contended that Ms. Baker listed items that he believed were community property as her own separate property. Finally, Mr. Baker asserted that "items missing from Ms. Baker's [DDL] could create a situation where the former community property is not fully partitioned." These included bank accounts, retirement accounts, pension plans, and automobile and a college savings account.

community liabilities. For good cause shown, the court may extend the time period for filing a detailed descriptive list. **If a party fails to file a sworn detailed descriptive list timely, the other party may file a rule to show cause why its sworn detailed descriptive list should not be deemed to constitute a judicial determination of the community assets and liabilities. At the hearing of the rule to show cause, the court may either grant the request or, for good cause shown, extend the time period for filing a sworn detailed descriptive list.** If the court grants the request, no traversal shall be allowed.

[Emphasis added.] Ms. Baker argues that the trial court erred in allowing Mr. Baker to oppose her rule to show cause and also erred in misinterpreting case law as a basis to deny her rule to show cause—however, a plain reading of La. R.S. 9:2801 shows that one party’s late filing of a descriptive list does not operate automatically to compel the court trial to adopt the other party’s list as a judicial determination of the community assets and liabilities. The permissive rule to show cause allows the court to grant the request or extend the deadline for the other party to file a list if good cause exists. La. R.S. 9:2801 enables the court to deny the request. In that case, the court can decide the community assets and liabilities on its own, based on the rule to show cause.

The cases cited by Ms. Baker to support her claim are factually distinguishable. In this case, Mr. Baker filed his DDL after the statutory deadline but before the hearing on her rule to show cause. In *Noel-Potier v. Potier*, 24-194 (La. App. 3 Cir. 10/30/24), 396 So.3d 999, 1000, the non-moving party did not file a DDL. In *Charles v. Charles*, 05-129 (La. App. 1 Cir. 2/10/06), 923 So.2d 786, 787, the non-moving party did not file any responsive pleadings. In *Gauthier v. Gauthier*, 04-198 (La. App. 3 Cir. 11/10/04), 886 So.2d 681, 683-84, *writ not considered*, 04-3019 (La. 2/18/05), 896 So.2d 15, the non-moving party did not file his DDL within the extended deadline provided by the trial court. In *Dray v. Bendily*, 46,452 (La. App. 2 Cir. 6/22/11), 69 So.3d 1200, the defendant failed to file an answer or list before the court entered a default judgment.

The trial court has broad discretion in adjudicating issues arising from a partition of the community and is afforded considerable latitude in determining an equitable distribution of assets between spouses. *McLaughlin v. McLaughlin*, 17-645 (La. App. 5 Cir. 5/16/18), 247 So.3d 1105, 1111 [citations omitted.] Although La. R.S. 9:2801 provides one means of determining a DLL, it is by no means the only way to accomplish the task nor is it the final step in the process. Where disputes arise between parties regarding the DLLs, the trial court may order the parties to submit a joint, detailed, and descriptive list. *Raymond v. Fluellen*, 11-1290 (La. App. 4 Cir. 3/7/12), 88 So.3d 652, 655, *decision clarified on reh'g* (April 4, 2012), *writ denied*, 12-1007 (La. 6/22/12), 91 So.3d 974. In other instances, the court may appoint a special master to complete the process of compiling a DLL with cooperation from the parties. See, for example, *Simmons v. Simmons*, 24-162 (La. App. 5 Cir. 1/29/25), 403 So.3d 1265, 1270-71, *writ denied*, 25-292 (La. 5/29/25). The court may amend the DLL at any time, as it is not a rigid document.²

² As observed by the court in *Smith v. Smith*, 95-913 (La. App. 1 Cir. 12/20/96), 685 So.2d 649, 655:

Courts have used their discretionary powers to allow amendment of these pleadings at various stages during the proceeding (even on appeal). See *Washington v. Washington*, 493 So.2d 1227, 1234 (La. App. 2nd Cir.1986) (in which the appellate court amended the trial court's

What is apparent from the foregoing is that the accuracy of a DLL in a partition action is of utmost importance, even if it requires additional steps to ensure it.

In this case, Mr. Baker did not need to establish “good cause” for a continuance because he did not request additional time to file a DLL. On the record, however, the trial court deferred adopting Ms. Baker’s DLL at the hearing on her rule based on contradicting information provided by Mr. Baker. A court is entitled to take judicial notice of its records, which include Mr. Baker’s contradictory claims about what constitutes community property. In addition, La. R.S. 9:2801(2) gives the court discretion to try and determine all issues at one hearing by ordinary procedure. The trial judge stated that, out of an abundance of caution, it would decide the matter after a trial on the merits—in effect, finding good cause to defer its ruling. On the specific facts presented and on the showing made, we find no abuse of the trial court’s discretion. We deny the writ for the reasons stated above.

Gretna, Louisiana, this 16th day of June, 2025.

JJM
FHW
TSM

judgment of partition to include certain community debts which were proven at trial, even though they had not been listed in the plaintiff’s detailed descriptive list).

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



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SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
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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 **06/16/2025** 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

25-C-259

E-NOTIFIED

29th Judicial District Court (Clerk)
Honorable Rochelle C. Fahrig (DISTRICT JUDGE)
Taetrece Harrison (Relator)
Jeremy S. Epstein (Respondent)

MAILED