

**Fifth Circuit Court of Appeal
State of Louisiana**

No. 26-C-84

DALE E. GOLDEN

versus

CHRISTIAN M. WIDDOWS, M.D., CAYLA CAROSONE-LINK, PA-C, OCHSNER HEALTH SYSTEMS, OCHSNER CLINIC FOUNDATION AND OCHSNER CLINIC, LLC

IN RE OCHSNER HEALTH SYSTEM, OCHSNER CLINIC FOUNDATION, OCHSNER CLINIC, LLC, CHRISTIAN MICHAEL WIDDOWS, M.D. AND CAYLA CAROSONE-LINK, PA-C APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE JUNE B. DARENSBURG, DIVISION "C", No. 853-322

TRUE COPY

May 11, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Jude G. Gravois,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT GRANTED FOR LIMITED PURPOSE; JUDGMENT DENYING SUMMARY JUDGMENT WITHOUT PREJUDICE REVERSED; REMANDED WITH INSTRUCTIONS

Relators/defendants, Christian M. Widdows, M.D., Cayla Carosone-Link, P.A.-C, Ochsner Health Systems, Ochsner Clinic Foundation, and Ochsner Clinic, LLC, seek this Court's supervisory review of the trial court's January 29, 2026 judgment which denied their motion for summary judgment "without prejudice." In their writ application, relators ask this Court to grant summary judgment in their favor and dismiss plaintiff/respondent, Dale E. Golden's, medical malpractice suit with prejudice.

For the following reasons, we conclude that the trial court abused its discretion in denying defendants' motion for summary judgment "without prejudice."

Accordingly, we grant this writ application for a limited purpose, reverse the January 29, 2026 judgment which denied defendants' motion for summary judgment "without prejudice," and remand the matter to the trial court with instructions for the court to rule on defendants' motion for summary judgment based on the presentations made by the parties at the January 29, 2026 hearing on the motion in the trial court, within fifteen days of the date of this disposition.

FACTUAL AND PROCEDURAL BACKGROUND

This is a medical malpractice suit. Plaintiff alleges defendants failed to diagnose a pulmonary embolism when her daughter, Tabitha Golden, presented to Ochsner's emergency department on February 18, 2020 with complaints consistent therewith.¹ Plaintiff, then represented by counsel, filed a complaint with the Louisiana Patient's Compensation Fund on or about February 12, 2021. The panel convened on January 3, 2024 and rendered a unanimous opinion in favor of defendants.

Plaintiff, now self-represented, filed a petition for damages in the 24th Judicial District Court on April 16, 2024. The case was originally allotted to Division L. Defendants filed an answer to the petition, and on September 4, 2024, sent plaintiff interrogatories and requests for production of documents. According to the writ application, plaintiff has never responded to discovery, and has yet to identify a medical expert who will testify as to any alleged breach of the standard of care or causation.

On December 10, 2024, Ochsner filed a motion for summary judgment, noting that plaintiff had failed to identify or provide sworn medical expert testimony to meet her burden of proof at trial, as required by La. R.S. 9:2794.² The hearing on the motion was set for January 27, 2025 (the 1st setting). Both parties were properly noticed. The matter was continued on the court's motion to February 10, 2025 (the 2nd setting), at which time the judge recused himself and the matter was re-allotted to Division C, where it is currently pending.

The hearing was subsequently reset to April 21, 2025 (the 3rd setting). Because plaintiff did not receive proper notice of the hearing, the matter was reset

¹ Tabitha Golden was treated and released; she passed away three days later at home.

² Among other things, La. R.S. 9:2794 sets forth the burden of proof and expert witness qualifications in a medical malpractice action.

for October 22, 2025 (six months later) (the 4th setting). Plaintiff did not file an opposition to the motion for summary judgment. Both parties appeared on this date. Plaintiff orally asked for a continuance, alleging that she had been unable to find an attorney willing to take the case. The matter was reset for December 17, 2025 (the 5th setting).

The parties appeared on December 17, 2025, with plaintiff not having filed an opposition to the motion for summary judgment as required by La. C.C.P. art. 966(B)(2),³ or a motion for a continuance. Plaintiff again alleged that she had been unable to find counsel to take her case. Over defendants' objection, with the trial court advising plaintiff that "no further continuances would be granted," the hearing was continued to January 26, 2026 (the 6th setting), with plaintiff being instructed to file an opposition by January 9, 2026.⁴

Plaintiff then timely filed a pleading entitled "opposition" to the motion for summary judgment. However, the opposition failed to include an affidavit or sworn testimony of a medical expert, and merely reiterated plaintiff's claims against defendants. Plaintiff again stated therein that she needed more time to retain counsel and an expert. Defendants filed a reply to the opposition, pointing out the deficiencies in the opposition, including the lack of an expert affidavit in support of plaintiff's claim.

At the hearing on January 29, 2026, both parties appeared. Plaintiff alleged that she had found legal representation the previous Friday, and that counsel needed a continuance in order to retain an expert.⁵ The court noted that plaintiff's exhibits to the opposition to the motion for summary judgment did not comply with La. C.C.P. art. 966(A)(4)(a),⁶ and excluded those from consideration. The motion was then fully heard and argued.

³ La. C.C.P. art. 966(B)(2) provides: "Except for any document provided for under Subsubparagraph (A)(4)(b) of this Article, any opposition to the motion and all documents in support of the opposition shall be filed and served in accordance with Article 1313(A)(4) not less than fifteen days prior to the hearing on the motion."

⁴ The hearing was originally set for January 26, 2026, but was continued to January 29, 2026 due to emergency winter weather conditions.

⁵ Plaintiff was not accompanied by counsel and did not file a motion to enroll counsel.

⁶ La. C.C.P. art. 966(A)(4)(a) provides, in pertinent part: "The only documents that may be filed or referenced in support of or in opposition to the motion are pleadings, memoranda, affidavits, depositions, answers to interrogatories, certified medical records, certified copies of public documents or public records, certified copies of insurance policies, authentic acts, private

After noting that defendants were “adamant” about moving forward with the motion for summary judgment, and despite having received no discovery from plaintiff, the court stated that “plaintiff affirmatively showed that expert review of the complete medical record was actively underway”; but the court also stated that it did not know if plaintiff’s representation to this effect was true.

The court then noted that no scheduling order was in place to set a discovery cutoff deadline. Thereafter, the court denied the motion for summary judgment “without prejudice,” “only because there’s no scheduling order in place.” The court stated that the lack of a scheduling order had failed to put plaintiff on notice that she had a deadline to obtain an expert, and plaintiff had indicated that discovery is incomplete. The court further noted that the case was in this posture now because, in March of 2025, “nobody would engage in a status conference to pick cutoff dates,” and if they had, “this case would now be ripe for a motion for summary judgment.” The court issued a written judgment denying the motion for summary judgment “without prejudice.”

The court then issued a scheduling order, with discovery to be completed by April 29, 2026, including plaintiff’s expert reports. The court then set the motion for summary judgment for hearing on June 12, 2026 (the 7th setting). Defendants objected to the ruling and timely filed this writ application, seeking a ruling from this Court granting their motion for summary judgment and dismissing plaintiff’s suit with prejudice.

ANALYSIS

Appellate courts review a judgment granting or denying a motion for summary judgment *de novo*, using the same criteria as the trial court in determining if summary judgment is appropriate: whether there is a genuine issue of material fact and whether the mover is entitled to judgment as a matter of law. *Parquet v. Louisiana HomeCare of Lutcher, L.L.C.*, 21-451 (La. App. 5 Cir. 3/30/22), 337 So.3d 1002, writ denied *sub nom. Parquet for Parquet v. Louisiana Homecare of Lutcher, L.L.C.*, 22-802 (La. 9/20/22), 346 So.3d 801.

The mere contention of an opponent that he lacks sufficient information to defend the motion and that he needs additional time to conduct discovery is

acts duly acknowledged, promissory notes and assignments thereof, written stipulations, and admissions. ...”

insufficient to defeat the motion. *Johnson v. Consol. Sewerage Dist. #1 of Par. of Jefferson*, 23-498 (La. App. 5 Cir. 5/1/24), 389 So.3d 211, 217. It is within the trial court's wide discretion to render a summary judgment, if appropriate, or to allow further discovery. *Pignona v. Farber*, 13-192 (La. App. 5 Cir. 10/9/13), 128 So.3d 390, 397–98, citing *Musa v. Litton–Avondale Indus., Inc.*, 10-627 (La. App. 5 Cir. 3/29/11), 63 So.3d 243, 251, *writ denied*, 11-1256 (La. 9/23/11), 69 So.3d 1163. The trial court's decision in this regard should only be reversed upon a showing of an abuse of that discretion. *Id.*

Although the parties must be given the opportunity to conduct “adequate discovery” to present their claims, *see* La. C.C.P. art. 966(A)(3),⁷ there is no absolute right to delay action on a motion for summary judgment until discovery is complete. The only limit to the trial court's discretion is that the parties must be given a fair opportunity to present their claims.⁸ *Ellis v. Louisiana Bd. of Ethics*, 14-0112 (La. App. 1 Cir. 12/30/14), 168 So.3d 714, 725, *writ denied*, 15-0208 (La. 4/17/15), 168 So.3d 400.

For good cause shown, the trial court may order a continuance of a motion for summary judgment hearing. La. C.C.P. art. 966(C)(2). In considering good cause, the trial court may take into consideration such factors as diligence, good faith, reasonable grounds, fairness to both parties, and the need for the orderly administration of justice. *Reed v. Landry*, 21-589 (La. App. 5 Cir. 6/3/22), 343 So.3d 874, 879.

In the present case, the trial court evidently found that plaintiff needed additional time for discovery. However, on the showing made herein, and taking into consideration such factors as diligence, good faith, reasonable grounds, fairness to both parties, and the need for the orderly administration of justice, *see Reed, supra*, we conclude that the trial court abused its discretion in denying defendants' motion for summary judgment “without prejudice.” There is no requirement that

⁷ La. C.C.P. art. 966(A)(3) provides: “After an opportunity for adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law.”

⁸ While we might be receptive to an argument that discovery has been hindered by some circumstance beyond plaintiff's control, in the present matter, no showing is made that that is the case. Any need for additional time to conduct discovery should have been expressed in a motion to continue, motion to compel, or other pleading. *Bourgeois v. Curry*, 05-0211 (La. App. 4 Cir. 12/14/05), 921 So.2d 1001, 1008, *writ denied*, 06-0208 (La. 4/24/06), 926 So.2d 549.

discovery be complete or that a scheduling order be in place prior to filing, setting, or hearing a defense motion for summary judgment. There is no statutory or legal requirement that the parties engage in a status conference to set discovery deadlines before a defense summary judgment motion may be filed and heard. The motion for summary judgment was originally filed in December of 2024, specifically pointing out that plaintiff had not supported her case with a medical expert witness. The motion has been set seven times over the course of a year and a half. Plaintiff was made aware that she needed an expert when the motion for summary judgment was first filed in December of 2024, and that each setting of the motion for hearing, after plaintiff's oral continuances were granted, was a deadline for producing an expert report.⁹ Further, at the December 17, 2025 hearing, the court clearly informed plaintiff that no more continuances would be granted.

Upon review, on the showing made, under the particular facts, circumstances, and procedural history as described herein, we conclude that the trial court abused its discretion in denying defendants' motion for summary judgment "without prejudice," which effectively granted plaintiff yet another continuance of a motion for summary judgment that was first filed in December of 2024 and has been set for hearing seven different times.

CONCLUSION AND DECREE

For the foregoing reasons, this writ application is granted for a limited purpose. The January 29, 2026 judgment which denied defendants' motion for summary judgment "without prejudice" is reversed. The matter is remanded to the trial court with instructions for the court to rule on defendants' motion for summary judgment based on the presentations made by the parties at the January 29, 2026 hearing on the motion in the trial court, within fifteen days of the date of this disposition.

Gretna, Louisiana, this 11th day of May, 2026.

**JGG
JJM
SUS**

⁹ "Discovery" is the furnishing to each other of information possessed by adverse parties. By obtaining a medical expert, plaintiff is not conducting discovery *per se*, but is investigating the merits of her own claims against defendants.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
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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 **05/11/2026** 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

26-C-84

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable June B. Darensburg (DISTRICT JUDGE)
Leah T. Therio (Relator)

Nairda T. Colon (Relator)
Joshua J. Spencer (Relator)

MAILED

Dale Golden (Respondent)
In Proper Person
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