Divorce

Catrambone v. Catrambone, 2024-0456 (La. App. 4 Cir. 02/14/25), 2025 WL 501924

Mr. Catrambone appealed two trial court judgments, one dismissing Ms. Catrambone's *Petition for Divorce* and her *Answer and Reconventional Demand* to his *Petition for Divorce* on her motion without a hearing, and one sustaining her *Exception of Lack of Subject Matter Jurisdiction* to his *Petition for Divorce* despite her judicial confession in two affidavits that the parties were domiciled in Orleans Parish.

The 4th U.S. Circuit Court of Appeal vacated the trial court's judgment dismissing Ms. Catrambone's *Petition for Divorce* and *Answer and Reconventional Demand*. La. C.C.P. art. 3958, governing the specific procedure for voluntary dismissals of divorce petitions under La. C.C. art. 102, and not La. C.C.P. art. 1671, governing the general procedure for voluntary dismissals, controlled, under which a voluntary dismissal can only occur on the parties' joint application or after a contradictory hearing. Ms. Catrambone's motion was not joint, and the trial court did not hold a contradictory hearing.

The 4th Circuit also reversed the trial court's judgment sustaining Ms. Catrambone's *Exception of Lack of Subject Matter Jurisdiction*. Under La. C.C. art. 1853, Ms. Catrambone judicially confessed in her *Petition for Divorce* and *Answer and Reconventional Demand* that jurisdiction and venue were proper in Orleans Parish. Nevertheless, the record provided sufficient evidence that Mr. Catrambone's domicile was in Orleans Parish.

Triche v. Triche, 2024-0369 (La. App. 5 Cir. 02/26/2025), 2025 WL 621429

Mr. Triche appealed the trial court's judgment granting Ms. Triche a divorce under La. C.C. art. 103(4) and awarding her attorney fees and costs, arguing that the trial court abused its discretion by taking judicial notice when granting the divorce, and by awarding her attorney fees and costs without determining the amount.

The 5th Circuit affirmed the trial court's judgment. The trial court did not abuse its discretion by granting a divorce under La. C.C. art. 103(4) by taking judicial notice of the testimony and findings at the hearing on Ms. Triche's *Petition for Protection from Abuse*. A court may take judicial notice of its proceedings under *Olavarrieta v. Robeson*, 2022-0158 (La. App. 5 Cir. 07/06/22), 345 So. 3d 1103. Rather than retrying the issue of domestic violence between the parties, the trial court decided it would take judicial notice of the previous testimony and finding on the issue, which was based on sufficient evidence, and its decision to do so was not manifestly erroneous.

Nor did the trial court abuse its discretion by awarding Ms. Triche her attorney fees and costs under La. R.S. 9:314. The statute authorizes the trial court to assess attorney fees and costs against the perpe-

trator of abuse, in this case, Mr. Triche. The amount of Ms. Triche's attorney fees and costs could be determined at a hearing held at a later date.

Child Support and Spousal Support

Triche v. Triche, 2024-0370 (La. App. 5 Cir. 02/26/2025), 2025 WL 619143

Mr. Triche appealed the trial court's judgment ordering him to pay $1,806.93 per month for child support and $1,875.00 per month for interim spousal support, arguing that the trial court abused its discretion in calculating child support by finding that he was voluntarily unemployed, and in calculating final spousal support by failing to accurately determine his income.

The 5th Circuit affirmed the trial court's judgment. The trial court did not abuse its discretion in calculating child support by finding that Mr. Triche was voluntarily underemployed. The trial court based its decision on the parties' testimony, which indicated that Mr. Triche was at fault for being terminated from his position as a process operator at W.R. Grace due to falling asleep on the job, he did not make a good faith effort to find other employment that would allow him to meet his obligations, and there was no compelling reason for him to change careers (from process operator to selling homeowner's insurance) at the time and in the manner he did. Additionally, the trial court did not abuse its discretion in calculating final spousal support by failing to accurately determine Mr. Triche's income. Under La. C.C. art. 112(D), the trial court's granting of a divorce under La. C.C. art. 103(4) allowed it to presumptively award Ms. Triche final spousal support that exceeded one-third of Mr. Triche's income.

Lloyd v. Elaire, 2024-0578 (La. App. 3 Cir. 03/12/25), 2025 WL 778469

Mr. Lloyd appealed the trial court's judgment dismissing his *Petition to Annul Consent Judgment* based on fraud or ill practices. The *Consent Judgment* awarded Ms. Elaire $500 per week in final spousal support for the remainder of her life.

The 3rd Circuit affirmed the trial court's judgment, holding that the trial court did not manifestly err in refusing to annul the *Consent Judgment* based on fraud or ill practices. The record showed that Mr. Lloyd had ample opportunity to have the *Consent Judgment* reviewed by an attorney but chose not to do so, and his testimony and text messages proved that he could read and write, thus contradicting his claim that he was illiterate.

Further, the 3rd Circuit also held that the trial court did not manifestly err in refusing to annul the *Consent Judgment* on other bases, i.e., for error and violation of public policy. The record showed that Mr. Lloyd did not sign the *Consent Judgment* in error because he knew what he was signing. Additionally, the one-third limitation on the amount of final spousal support under La. C.C. art. 112 was inapplicable to the contractual spousal support created by the *Consent Judgment*.

Custody - Relocation

Thibodaux v. Thibodaux, 2024-0948 (La. App. 1 Cir. 02/28/25), 2025 WL 655793

Mindi Thibodaux appealed the trial court's judgment sustaining Katie Thibodaux's *Exception of No Cause of Action* to her *Motion for Contempt and Modification of Custody*, arguing that the trial court committed legal error in sustaining the exception and not hearing the motion.

The 1st Circuit reversed the trial court's judgment, holding that it committed legal error in sustaining Katie's *Exception of No Cause of Action* to Mindi's *Motion for Contempt and Modification of Custody*. Mindi's motion alleged sufficient facts by alleging that the distance between the children's former and current residences was "more than 75 miles." The trial court considered facts beyond the four corners of Mindi's motion by considering Katie's argument that "miles" as contemplated in La. R.S. 9:355.1 et seq. should be measured in radial distance, and the radial distance between the children's former and current residences did not exceed 75 miles. The trial court also committed legal error in not hearing Mindi's motion in light of the appellate court's holding that it committed legal error in sustaining the exception.

Partition

Reis v. Reis, 2024-0750 (La. App. 4 Cir. 04/03/25), 2025 WL 999990

Mr. Reis appealed the trial court's judgment classifying Outkast Industrial, LLC, as a community asset. Ms. Reis moved to dismiss the appeal, arguing that the trial court's judgment was not final or appealable. The 4th Circuit agreed but denied Ms. Reis's motion, instead electing to exercise its discretion to convert the appeal to a writ application.

On review, the 4th Circuit affirmed the trial court's judgment classifying Outkast Industrial, LLC as a community asset. The trial court based its decision on the testimony and evidence adduced at trial, noting in its reasons for judgment that Outkast Industrial did not differentiate itself from Outkast Environmental, LLC, another community asset, regarding its public image; the logos were similar; and Mr. Reis sought business and hired employees for Outkast Industrial from Outkast Environmental. Additionally, the source of the funds used to start Outkast Industrial after the parties' divorce came from Mr. Reis's withdrawal of $40,000 from a joint bank account days before he filed documents with the Louisiana Secretary of State. As the trial court based its decision in large part on credibility, the 4th Circuit declined to disturb its decision on appeal.

Paternity

Franklin v. Shotwell, 2024-0326 (La. App. 3 Cir. 03/05/25), 2025 WL 700408

Ms. Franklin gave birth to two sons, Aiden and Carter, during her marriage to Mr. Brunnabend, whom she later divorced. Ms. Franklin and Mr. Shotwell were married in May 2012 but separated sometime in 2013. In 2014, Mr. Brunnabend, Ms. Franklin, and Mr. Shotwell executed a three-party acknowledgment stating that Mr. Brunnabend was not Aiden's biological father and that Ms. Franklin and Mr. Shotwell were Aiden's biological parents.

On Nov. 12, 2022, Aiden was involved in an automobile-pedestrian accident with a police vehicle, and he died from his injuries on Dec. 15, 2022. Ms. Franklin and Mr. Shotwell each filed a wrongful death and survival action, which were consolidated and stayed.

On Nov. 8, 2023, Ms. Franklin filed a *Petition to Revoke Acknowledgment of Paternity*, alleging that Mr. Shotwell was not Aiden's biological father. Mr. Shotwell responded by filing multiple exceptions, including an *Exception of Peremption*. The trial court heard the exceptions and rendered judgment sustaining the *Exception of Peremption*, dismissing Ms. Franklin's *Petition to Revoke Acknowledgement of Paternity*,

and finding that the other exceptions were moot. Ms. Franklin appealed.

The 3rd Circuit affirmed the trial court's judgment, holding that the trial court did not manifestly err in sustaining Mr. Shotwell's *Exception of Peremption* to Ms. Franklin's *Petition to Revoke Acknowledgment of Paternity*. Although a nullity action under La. R.S. 9:406(B) on the basis of lack of biological relationship is generally imprescriptible, an exception may apply under La. C.C. art. 195, citing *Wetta v. Wetta*, 2021-0092 (La. App. 3 Cir. 06/02/21), 322 So. 3d 365, *writ denied*, 2021-0940 (La. 10/19/21), 326 So. 3d 255.

Similar to *Wetta*:

(1) The presumption of paternity under La. C.C. art. 195 applied because at the time of executing the acknowledgment, the child was not filiated to another man, and Mr. Shotwell subsequently married Ms. Franklin and acknowledged him by authentic act with her concurrence.

(2) Although La. C.C. art. 195 contemplated a father bringing a disavowal action, "the peremptive period contained in the article would apply in the case of a mother bringing a disavowal action." Ms. Franklin "[was] not merely seeking to have the acknowledgment revoked, but [was] ultimately seeking to rebut the presumption of paternity," which "in essence seeks a disavowal."

(3) The child's interest "would not be served by allowing a father to accept responsibility of being a parent only to have paternity stripped away at the hands of a mother for the sole purpose of financial gain of the mother."

McKinley v. McKinley, 2024-0850 (La. App. 1 Cir. 03/21/25), 2025 WL 880208

The case came before the trial court on remand from the 1st Circuit's judgment holding that the trial court committed legal error in sustaining an *Exception of Prescription* to Mr. McKinley's *Petition to Annul Acknowledgment of Paternity*.

On May 16, 2023, the trial court rendered judgment annulling the acknowledgments of M.M. and Z.M. based on genetic testing, declaring that Mr. McKinley was not the children's biological father, ordering the Office of Vital Records to remove his name as the father on the children's birth certificates and ordering the State to return all child support payments he made retroactive to the filing date of the *Petition to Annul Acknowledgment of Paternity*.

On Oct. 5, 2023, the State filed a rule to show cause why Mr. McKinley should not be ordered to pay child support for M.M. and Z.M. Mr. McKinley responded by filing exceptions of no cause of action and no right of action, alleging that he was neither the children's biological father nor legal father. The State opposed Mr. McKinley's exceptions, contending that under La. C.C. art. 195, the annulment of the acknowledgments did not result in disavowal. Following the trial of the exceptions on Feb. 20, 2024, the trial court sustained Mr. McKinley's exceptions and signed a written judgment in conformity with its oral ruling on March 8, 2024. The State appealed.

The 1st Circuit reversed the trial court's judgment in part, holding that it committed legal error in sustaining Mr. McKinley's *Exception of No Cause of Action* to the State's *Rule to Show Cause* because it did not accept as true the allegation that Mr. McKinley was the children's father. The 1st Circuit also affirmed the trial court's judgment in part, holding that it did not commit legal error in sustaining Mr. McKinley's *Exception of No Right of Action*. Considering that Mr. McKinley's acknowledgments were annulled and his name removed from the birth certificates, he did not "acknowledge the children by authentic act" so as to invoke the presumption of paternity under La. C.C. art. 195.

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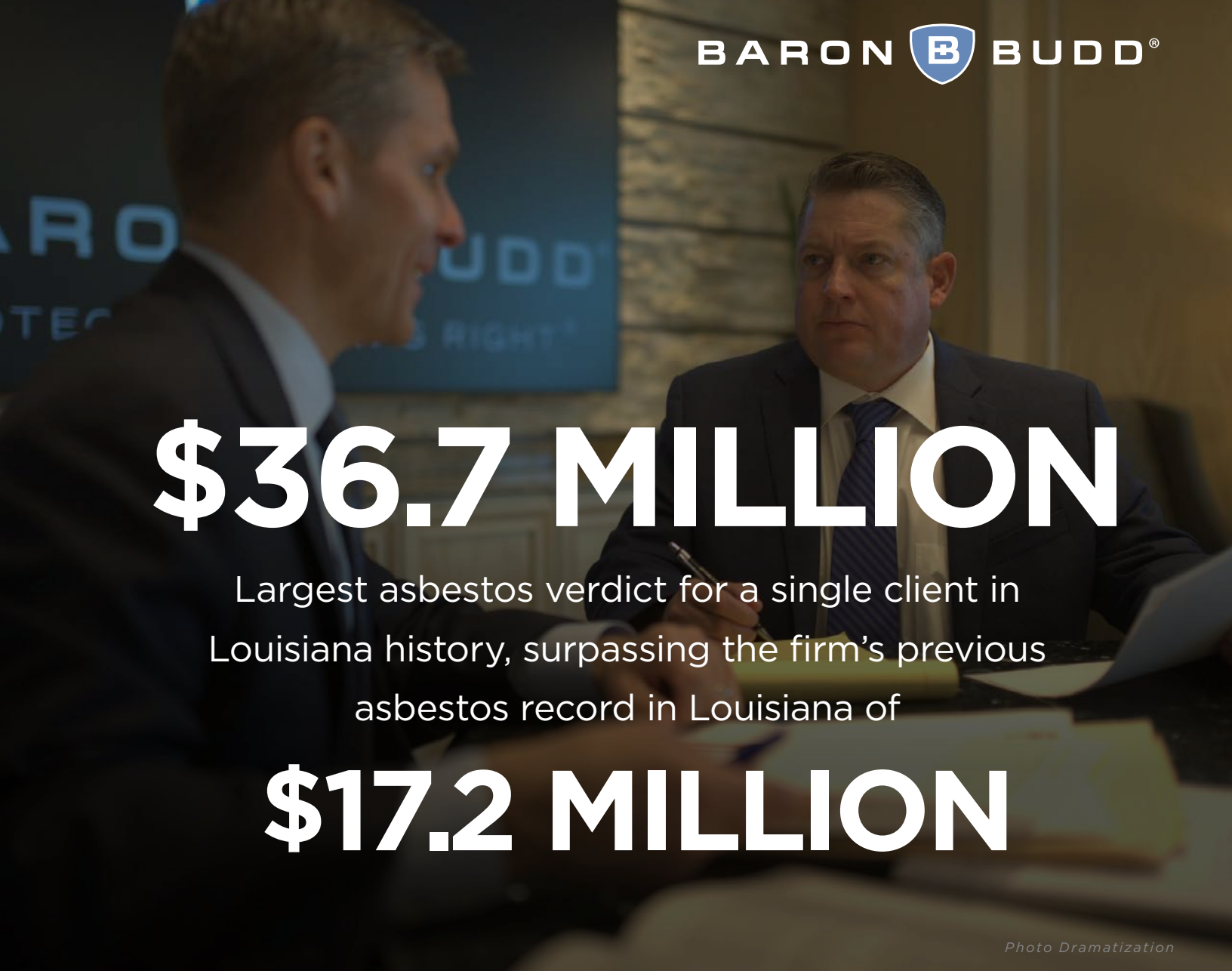
"Our Holding Should Have No Adverse Effect on Water Quality": The Supreme Court Opines on EPA's Section 402 Jurisdiction

In *City & County of San Francisco, Cal. v. Environmental Protection Agency*, 145 S.Ct. 704 (2025), the United States Supreme Court issued an opinion on water-quality permitting that appears to make managing certain types of water discharges more complex. San Francisco's municipal facilities generally treat both its stormwater and wastewater. However, during high rainfall events, the city's system can become overwhelmed and, pursuant to an Environmental Protection Agency (EPA) permit, may discharge "untreated water, including raw sewage" into the Pacific Ocean. *Id.* at 712. These discharges are piped beyond California's sovereign water boundary into federal waters some 3.2 miles off the coast, and when they occur, EPA may require the city to pay penalties under the Clean Water Act (CWA). Here, the city challenged the propriety of these penalties and was granted certiorari following a loss at the 9th Circuit.

Writing for the majority, Justice Alito opened the opinion with a statement regarding the penal nature of CWA violations when he observed that permittees may "face crushing penalties." *Id.* at 710, 712. For similar language regarding the penal nature of CW penalties, *see Sackett v. EPA*, 143 S.Ct. 1322, 1330-31 (Alito, J., noting "crushing" penalties and "severe penalties"). As characterized by the majority (Alito, Roberts, Thomas, Kavanaugh, and, in part, Gorsuch), the CWA's discharge-permitting regulations (often referred to as "Section 402 regulations") do not reasonably inform permittees what they can and cannot do under a 402 permit. The majority stated that EPA's Section 402 regulations hold permittees accountable for the "end result" of their discharges but do not prescribe adequate limitations for how to avoid "end result" violations. The majority held that EPA exceeded its statutory authority when drafting these long-standing regulations. To reach this holding, the majority found that EPA is not "do[ing] its work" when setting discharge limits in the first place because if it were, it would know what a facility's maximum discharge amount should be in order to maintain water-quality standards. *San Francisco*, 145 S.Ct. at 710.

The city's winning argument in this case was that Congress did not authorize EPA to equate discharge-permit compliance with water-quality attainment in the receiving water body. The majority did not traverse EPA's CWA authority to create regulations for maintaining water-quality standards. Rather, the majority opined that EPA's only authority with Section 402 permits is to predict the amount that any



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permittee can discharge while maintaining overall water-quality standards in the receiving waterbody. The majority found, however, that Congress did not contemplate regulations that penalize permittees when their authorized discharges cause water quality to drop below a threshold.

The majority stated that it was EPA's job to craft permits on the front end that avoid water-quality violations on the back end, effectively eliminating any control of cumulative-discharge impacts. According to the Court, it is EPA's fault if the permits that EPA crafts result in water-quality threshold exceedances, and the polluter, doing what the permit authorized it to do, could not be held accountable. In this regard, the majority characterized Section 402 authorizations as "permit shields" that ensure protection when a permittee "does everything required by all the other permit terms…, if, in the end, the quality of the water in its receiving waters dropped below the applicable water-quality levels," so that the permittee does not "face dire potential consequences." *Id.* at 718.

Justices Kagan, Sotomayor and Jackson joined Justice Barrett in penning the dissent. Characterizing the above reasoning as a "weak theory," Justice Barrett, backed by the Court's liberal block, dissented from the operative part of the majority's opinion. *Id.* at 721. Opining that the entirety of this case should have been disposed of by upholding the 9th Circuit's decision on the city's primary theory regarding the definition of the term "limitation," Justice Barrett observed that the substance of the majority's opinion rested on "a theory largely of its own making." *Id.* at 722.

The dissenters take issue with the majority on the basis on which the majority overturned the appellate court. The dissent characterized the majority's assessment that a permit restriction represents a limitation only when it is anticipated by EPA as not just legally incorrect, but "wrong as a matter of ordinary English." *Id.* at 723. The dissent contended that the majority limited EPA contrary to Congress's intent. To illustrate this point, the dissent observed that Congress, with the 1972 CWA, prohibited all discharges subject only to those that comply with the law as enforced by EPA. The dissent continued by asserting that the majority opinion represents "a statutory rewrite" instead of a case-by-case analysis for reviews under an arbitrary-and-capricious standard.

Ultimately, this case represents a razor-thin split among the justices on a matter of critical environmental importance. However, the vast chasm between the majority and dissenting opinions suggests that subsequent interpretations of the CWA's Section 402 permitting process will be varied. This case did not establish a bright-line rule, and the evident internal disagreement will, no doubt, lead to judicial uncertainty for the foreseeable future.

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Policy and Enforcement Reversals Under the New EEOC

Since President Trump appointed Andrea Lucas as Acting Chair of the EEOC in January 2025, the agency's policies and enforcement priorities have undergone rapid and sweeping changes. Lucas, an employment attorney with a history of criticizing diversity, equity and inclusion (DEI) initiatives and a vocal opponent of transgender rights, has initiated a series of reversals of the previous administration's EEOC policies.

Anti-American National Origin Discrimination

At the time of her appointment, Lucas stated her priorities would include "protecting American workers from anti-American national origin discrimination." Within a month, the EEOC filed *EEOC v. LeoPalace Guam Corp.*, 1:25-cv-00004 (D. Guam), alleging LeoPalace Resort, a large hotel employer on Guam, violated Title VII by treating American employees less favorably than their Japanese counterparts. Within days of the EEOC's filing, LeoPalace agreed to settle with the class of charging parties and other eligible claimants for upward of $1.4 million. Beyond the financial settlement, LeoPalace committed to comprehensive injunctive relief, including hiring an external equal-employment-opportunity monitor to oversee compliance, implementing training programs and policy revisions, offering reinstatement to former employees interested in returning and conducting periodic audits and reporting to the EEOC.

Historically, EEOC enforcement cases involving Title VII national origin discrimination have involved discrimination against foreign-born workers at American companies. In *LeoPalace*, the EEOC demonstrated that it was pivoting to uphold the Trump administration's broader agenda to prioritize protecting American employees instead.

Policy Revisions and Enforcement Reversals on Gender Identity Protections

In January 2025, in alignment with Executive Order 14168 ("Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government"), Lucas initiated the rollback of policies related to gender identity. Actions included removing the agency's "pronoun app," which allowed agency employees to identify pronouns that would appear alongside their name in internal and external communications; ceasing the use of the "X" gender marker during the intake process for discrimination charges and revising forms to eliminate the "Mx." prefix option.

Lucas also expressed opposition to the EEOC's 2024 Enforcement Guidance on Harassment in the Workplace, which defined harassing conduct as including "denial of access to a bathroom or other sex-segregated facility consistent with [an] individual's gender identity" and "repeated and intentional use of a name or pronoun inconsistent with [an] individual's known gender identity." However, she admitted that she could not unilaterally revise that guidance, as a vote of the Commission was required.

Soon after, the EEOC moved to dismiss several of its own cases brought against employers accused of discriminating against transgender and gender-nonconforming employees, citing its intent to comply with Executive Order 14168 and Lucas' priorities for the agency. For instance, on Feb. 14, 2025, the EEOC moved to dismiss its complaint against a hotel operator who fired a transgender employee the day after the employee complained about repeated misgendering and derogatory comments from a supervisor. *EEOC v. Boxwood Hotels, LLC*, 1:24-cv-00902 (W.D.N.Y.). Within days, the EEOC moved to dismiss similar cases across the country. *See EEOC v. Starboard Group, Inc.*, 3:24-cv-02260 (S.D. Ill.) (class of transgender employees alleged pervasive sexual harassment at a Wendy's location in Illinois); *EEOC v. Lush Handmade Cosmetics, LLC*, 5:24-cv-06859 (N.D. Cal.) (sexual harassment of transgender and nonbinary employees by a manager of cosmetics store); *EEOC v. Harmony Hospitality, LLC*, 1:24-cv-00357 (M.D. Ala.) (nonbinary employee terminated after supervisor observed gender-nonconforming clothing and styling for the first time). Plaintiffs in these cases have the opportunity to intervene and retain private counsel to continue pursuing their claims.

Scrutiny of Law Firm Diversity Initiatives

On March 17, 2025, Lucas requested detailed information from 20 major law firms regarding their hiring practices, diversity fellowships and other DEI policies. Notably, several of the firms contacted, including Perkins Coie, Hogan Lovells, Ropes & Gray, and WilmerHale, represent plaintiffs in current lawsuits against the Trump administration.

This initiative aligns with the administration's broader efforts to dismantle DEI initiatives within the federal government and private sector.

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Evidence of Informed Consent

Lucas v. Ochsner Clinic Found., 24-0628 (4th Cir. 10/10/24), _____ So. 3d _____, . 2024 WL 4457155.

The patient underwent elective aortic constructive surgery after having signed a consent form. During the surgery, her esophagus was seriously damaged, causing severe blood loss and her death four weeks later.

During trial, the plaintiffs filed a motion in limine "to exclude all evidence relating to informed consent." They argued that the form was irrelevant to the case and, irrespective of relevance, "La. C.E. art. 403 demands its exclusion because of the high probability of prejudice." The defendants countered that the consent form is admissible because it was included in her certified medical records, further contending that admission of the form did not present "any great risk of undue prejudice."

The trial court denied the plaintiffs' motion, and the appellate court accepted their writ.

The appellate court began its analysis by noting that the plaintiffs' claim was "part of a relatively new body of law" and that there was no Louisiana Supreme Court ruling on the issue in medical malpractice case "when informed consent is not part of the claim presented." While acknowledging that all relevant evidence is admissible, the court wrote such "evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury," noting the holding in *Matranga v. Parish Anesthesia of Jefferson, L.L.C.*, 14-0448 (La. App. 5 Cir. 5/14/15), 170 So.3d 1077, *writs denied,* 15-1143, 1168 (La. 9/18/15), 178 So.3d 148, 152, provided a "situation remarkably similar" to the case at bar. During the *Matranga* trial, the defendants "repeatedly highlighted the dangers inherent" in that patient's surgery, thus easily leading the jury to conclude that the patient "acquiesced to her injury and subsequent death." The *Matranga* court decided that admitting the informed consent most likely caused confusion to the jury in favor of the defendant and therefore reversed the verdict and ordered a new trial.

The *Lucas* court also referenced *Patten v. Gayle*, 46,453 (La. App. 2d Cir. 6/22/11), 69 So.3d 1180, and again noted "jury confusion as a result of introduction of irrelevant consent forms and testimony." In the second *Patten* trial, additional evidence concerning a second perforation was discovered, and the court then allowed introduction of the consent evidence.

The Louisiana Supreme Court, in a *per curiam* opinion, had approved exclusion of informed consent because it was irrelevant to the claim. *French v. Quality Nighthawk*, 23-1534 (La. 11/30/23), 373 So.3d 690.

Here, just as in *Matranga* and *Patten*, the common thread was "jury confusion." The Code of Evidence and logic "dictate that such evidence should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion, and often results in a

waste of time." La. C.E. art. 403.

Thus, the appellate court concluded "that judicial efficiency and fundamental fairness supports the adoption of a general rule that evidence of informed consent should not be allowed at a trial on the merits unless a claim necessarily raises it as a question to be determined by the trier of fact," which was not applicable in the case before it.

Prescription Under Two Theories

Cleveland v. Bienville Med. Ctr. Inc., No. 21-4338 (W.D. La. Mar. 19, 2025), ___F. Supp.3d___, 2025 WL 864303.

Two claims were filed—one under Louisiana's "Anti-Dumping" statute (La. R.S. 40:2113.4) and the other for medical malpractice—both stemming from the death of Kedeldric Brown. The question is whether these claims, brought by a substituted plaintiff, Brianna Babers, relate back to the original complaint filed by Angela Cleveland, Mr. Brown's mother, within the applicable prescriptive periods.

Background

Kedeldric Brown died on Dec. 18, 2020. His mother, Angela Cleveland, filed an initial complaint on Dec. 17, 2021, alleging that Bienville Medical Center (BMC) and its staff violated Louisiana's anti-dumping law (La. R.S. 40:2113.4) by failing to provide emergency medical screening and stabilizing treatment. However, Ms. Cleveland was not a proper party to bring a wrongful death or survival claim under Louisiana law because Mr. Brown had a surviving child, K.D., who had priority. On Dec. 12, 2022—after the one-year prescriptive period expired—Ms. Babers amended the complaint, substituting herself as the natural tutor of K.D. and representative of Brown's estate.

BMC argued that Ms. Babers' amended complaint was prescribed because it was filed outside the one-year window and could not relate back to the original complaint since Ms. Cleveland lacked the legal right to sue.

Anti-Dumping Claim

The court applied the relation-back doctrine under *Nobre v. Louisiana Dep't of Pub. Safety*, 935 F.3d 437 (5th Cir. 2019), a federal 5th Circuit case with similar facts. In *Nobre*, the court held that an amended complaint could relate back even if the original plaintiff lacked standing, so long as the *Giroir* factors were met: (1) the amended claims arise from the same events; (2) defendants had notice of the correct plaintiffs; (3) the new plaintiffs are closely related to the original plaintiff; and (4) the defendants suffer no prejudice.

Here, the court found that all four *Giroir* factors were satisfied and held that the instant case required the same result as *Nobre*. Thus, Ms. Babers' anti-dumping claim was deemed timely because it properly related back to the original filing.

Medical Malpractice Claim

Ms. Babers also raised medical malpractice claims in the amended complaint. However, Louisiana's medical malpractice statute (La. R.S. 9:5628(A)) imposes a strict one-year prescriptive period from the date of the malpractice or discovery thereof, with an absolute three-year peremptive period. The amended complaint was filed nearly two years after the alleged malpractice. The plaintiff attempted to use the same relation-back argument, but the court, citing *Warren v. Louisiana Med. Mut. Ins. Co.*, 07-492 (La. 12/2/08), 21 So.3d 186, held that relation back does not apply to medical malpractice claims in Louisiana. As such, those claims were dismissed as untimely.

Conclusion

The court allowed the anti-dumping claim to proceed under the relation-back doctrine but dismissed the medical malpractice claims as prescribed under Louisiana law.

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Request for Affidavit for Objection to Candidacy Hearing

Louisiana Department of Revenue, Revenue Information Bulletin No. 25-010 (2/5/25).

Louisiana Revised Statutes 18:493(B) and 47:1508(A)(4), enacted by Act 298 of the 2024 Regular Session of the Louisiana Legislature, prohibit an employee of the Louisiana Department of Revenue from being subpoenaed or otherwise required to appear in court for any matter filed pursuant to La. R.S. 18:493, objecting to qualification of a candidate. In lieu of live testimony, an affidavit issued by the Department shall serve as sufficient confirmation of the Department's records. Additionally, the Act provides that any affidavit issued by the Department shall satisfy the same objective as that afforded by live testimony and the issuance of a subpoena. The Department has issued guidance in a bulletin for requesting such affidavit in connection with an objection to candidacy hearing.

While the records and files of the Department are generally confidential and privileged, La. R.S. 47:1508(B)(8) authorizes the Department to disclose the name of any taxpayer who has filed an income or corporation franchise tax return, upon request. For purposes of a public-records request for information relative to the filing history of a named party, an applicant must complete Form R-7002, Louisiana Department of Revenue Public Records Request, and submit it either electronically (recommended) to LDR.PublicRecordsRequest@la.gov, or by mail, as directed on Form R-7002.

The Department remains prohibited from disclosing any other tax-related information, such as the taxpayer's address, filing date, extension requests or any other details from the return.

After receiving the public-records-request-response letter, an affidavit may be requested by email at LDR.PublicRecordsRequest@la.gov. The email must include the requestor's name, address and e-mail address; taxpayer's name; taxpayer's address and date the public-records-request-response letter was issued, as well as a copy of the public-records-request-response letter.

The affidavit, complete with an electronic signature, will be issued to the email provided unless a handwritten signature is requested. Request for handwritten signature must be made at the time of the submission of the request. Affidavits with a handwritten signature must be picked up from the Department's Headquarters at the LaSalle Building in Baton Rouge, Louisiana. Applicants are responsible for submitting the completed form and response letter in a timely manner.

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5th Circuit Confirms That Tax Evasion Does Not Require Fraud

In *United States v. Barrett*, No. 24-30139 (5th Cir. Mar. 17, 2025), 2025 WL 832798, the 5th Circuit upheld the conviction of defendant Melissa Rose Barrett, who was convicted of felony tax evasion for failing to pay federal taxes over the course of a decade. At trial, the government introduced evidence that Barrett had purchased over $20 million in assets despite owing over $1 million in personal tax debt. The government alleged that Barrett titled the assets in names of other individuals and in the name of Barrett's business to avoid seizure of the assets by the IRS. Barrett appealed the conviction, challenging two elements of the jury instructions and the sufficiency of the evidence presented at trial.

First, Barrett contested the district court's jury instruction stating that tax evasion under 26 U.S.C. § 7201 "does not necessarily involve fraud or deceit." Barrett argued that the instruction confused the issue of mens rea (criminal intent) for the jury. However, the 5th Circuit held that the instruction was legally sound, citing the Supreme Court's holding in *Kawashima v. Holder*, which affirmed that a taxpayer could "willfully" evade taxes without engaging in fraud or misrepresentation by, for example, filing a correct return yet avoiding the payment of the tax by moving assets beyond the IRS's reach. 132 S.Ct. 1166, 1175 (2012). The 5th Circuit therefore found no abuse of discretion in the district court's instruction, noting that the instruction appropriately clarified the issues for the jury given that Barrett's defense focused on whether Barrett acted with the requisite mental state to constitute "willful" evasion. *Barrett*, 2025 WL 832798, at *1.

Next, Barrett argued that the district court erred by failing to instruct the jury that a defendant who acted in good faith may not have "willfully" evaded taxes. The 5th Circuit reviewed the issue for plain error and found none. The court concluded that an adequate instruction on willfulness negates the need for a separate instruction on good faith, and the jury was properly instructed on willfulness by the district court. *Id*. at *2

Finally, Barrett challenged the sufficiency of the evidence supporting the conviction. The 5th Circuit, however, determined that a rational jury could find Barrett guilty beyond a reasonable doubt based on the evidence presented. Barrett's primary defense was that she could not have intended to evade taxes because the IRS was aware of Barrett's evasive actions. The court rejected this argument, stating that discovery and awareness of a tax evasion scheme by the IRS does not negate the tax evasion itself and that to hold otherwise would mean "the Government's discovery of [a] tax evasion scheme renders it lawful." *Id*.

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