

**STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700**

No. 56,346-CW

GERGANA NOZHAROVA individually
and on behalf of ALEKSANDAR
NOZHAROVA

VERSUS

SINDLE TRUCKING, LLC,
RONNIE WAYNE DAVIS and
PROGRESSIVE SOUTHEASTERN
INSURANCE COMPANY

FILED: 02/03/25

RECEIVED: EMAIL 01/31/25

On application of Gergana Nozharova individually and on behalf of Aleksandar Nozharova for SUPERVISORY WRIT in No. 2022-119 on the docket of the Sixth Judicial District, Parish of MADISON, Judge Angela Lynn Claxton.

MORRIS & DEWETT, LLC
Justin C. Dewett

Counsel for:
Gergana Nozharova
individually and on behalf of
Aleksandar Nozharova

DEUTSCH KERRIGAN, LLP
John Jerry Glas

Counsel for:
Sindle Trucking, LLC and
Ronnie Wayne Davis

Before STEPHENS, THOMPSON, and MARCOTTE, JJ.

WRIT GRANTED AND MADE PEREMPTORY.

Applicant Gergana Nozharova, individually and on behalf of Aleksandar Nozharova, seeks review of the trial court's rulings granting partial summary judgment in favor of Sindle Trucking, LLC, dismissing the direct negligence claims of applicant and striking an expert witness affidavit.

Because a plaintiff bears the burden of proof at trial, a defendant's burden on summary judgment is to show an absence of factual support for one or more

elements essential to a plaintiff's claim. *Evans v. Abubaker, Inc.*, 23-00955 (La. 5/10/24), 384 So. 3d 853. Even if evidence is presented to point out the lack of support for an element of plaintiff's case, the burden of proof does not shift to the party opposing the summary judgment motion until the mover puts forth a *prima facie* case that no genuine issues of material fact remain. *Henderson v. Capdeville*, 22-0655 (La. App. 4 Cir. 3/3/23), 358 So. 3d 1021, *writ denied*, 23-00471 (La. 5/23/23), 360 So. 3d 1261. The party seeking summary judgment always bears the initial responsibility of informing the district court of the basis for its motion and identifying what it believes demonstrates the absence of a genuine issue of material fact for one or more elements of the plaintiff's claim. *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986).

After *de novo* review, we find that Sindle Trucking, LLC failed to carry its initial burden of establishing the absence of factual support for the causation element of the direct negligence claims at issue. The motion and memorandum submitted in support of the partial summary judgment fails to adequately point out to the court "the absence of factual support for ***one or more elements*** essential to the adverse party's claim," as required by La. C.C.P. art. 966(D). Additionally, we find that the deposition testimony submitted in support of the partial summary judgment fails to negate the essential element of causation. Thus, the burden never shifted to applicant and the trial court erred in granting partial summary judgment. For these reasons, we also find that the trial court erred in considering the evidence submitted in opposition to the motion for partial summary judgment and excluding the expert affidavit. This writ is hereby granted and the rulings of the trial court granting partial summary judgment on the issue of causation and striking the expert affidavit are reversed. This matter is remanded for further proceedings.

Shreveport, Louisiana, this 9 day of April, 2025.

JRT MS Com

FILED: April 9, 2025

Melby Melton
DEPUTY CLERK