Judgment rendered August 26, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 56,985-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

ELITE RENTAL PROPERTIES, LLC AND DALTON C. DODDS	Plaintiffs-Appellants

versus

NAUTILUS INSURANCE COMPANY, SOUTHERN GENERAL AGENCY, INC, THE LINCOLN AGENCY OF LA, INC. F/K/A THE LINCOLN AGENCY, LLC	Defendants-Appellees

* * * * *

Appealed from the
Fourth Judicial District Court for the
Parish of Ouachita, Louisiana
Trial Court No. 2023-3312

Honorable Wilson Rambo, Judge

* * * * *

IRPINO, AVIN & HAWKINS LAW FIRM By: Anthony D. Irpino Kacie F. Gray Samuel J. Bua, II	Counsel for Appellants
LEAKE ANDERSSON, LLP By: George D. Fagan Gus E. Laggner	Counsel for Appellees, Southern General Agency, Inc.
GIBSON LAW PARTNERS, LLC By: Anna M. Grand-Lege Courtnee C. Green	Counsel for Appellees, The Lincoln Agency, LLC and The Lincoln Agency of La, Inc.

* * * * *

Before STONE, COX, and ROBINSON, JJ.

COX, J.

This suit arises out of the Fourth Judicial District Court, Ouachita Parish, Louisiana, the Honorable Wilson Rambo presiding. The Plaintiffs appeal the trial court's granting of an exception of peremption. For the following reasons, we affirm.

FACTS

On September 8, 2023, Elite Rental Properties ("Elite") and Dalton C. Dodds filed a petition for damages against Nautilus Insurance Company ("Nautilus"), Southern General Agency ("SGA"), and The Lincoln Agency of LA, Inc. f/k/a The Lincoln Agency, LLC ("Lincoln"). The Plaintiffs retained SGA/Lincoln in 2021 to procure insurance coverage for multiple properties, including 207 Linderman Avenue in West Monroe, Louisiana ("the Property"). SGA/Lincoln's agent, Mark Hendricks, obtained a property insurance policy for the Plaintiffs from Nautilus with an effective date of January 31, 2022; the Plaintiffs paid the estimated premium of $1,760.43 on February 4, 2022.

The Property had two structures, a single family home and a rear structure, which contained a small apartment. The Plaintiffs claim that they understood the policy to cover both structures. On September 9, 2022, a fire broke out, causing catastrophic damage to the rear structure and exterior damage to the primary structure. Nautilus denied payment for the rear structure, claiming it was not covered in the policy.

The Plaintiffs claimed that SGA/Lincoln had an obligation to review and analyze the insurance applications and act with due diligence in securing all insurance coverage. The Plaintiffs alleged that they relied on SGA/Lincoln and Mr. Hendricks to procure the necessary insurance to protect all structures on the Property. The Plaintiffs claimed damages for causes of action under La R.S. 9:5606 (action for professional insurance liability), breach of insurance contract, and bad faith.

On November 14, 2023, SGA filed an answer and affirmative defenses. SGA argued peremption; that the Plaintiffs did not state a claim against SGA upon which relief could be granted; the stated claims were caused by the Plaintiffs or another party; the Plaintiffs failed to mitigate their damages; estoppel, waiver, accord and satisfaction, and/or ratification; and avoidable consequences. On December 15, 2023, Lincoln filed an exception of vagueness/ambiguity.

On July 29, 2024, the Plaintiffs voluntarily dismissed their case against Nautilus with prejudice.

On March 11, 2025, SGA filed a motion for summary judgment, arguing no genuine issue of material fact regarding the following: 1) the one-year preemptive period for actions against insurance agents has passed; 2) SGA did not owe a duty to advise the Plaintiffs about the desirability of its coverage because it had no relationship with the Plaintiffs; 3) as an insurance wholesale broker, it owed no fiduciary duty to the Plaintiffs because it did not communicate directly with the Plaintiffs; and 4) it made no negligent representations to the Plaintiffs.

On March 20, 2025, Lincoln filed peremptory exceptions of no cause of action and no right of action and a separate motion for summary judgment on peremption/prescription. Lincoln argued that the Plaintiffs failed to file their suit within one year of the incident, i.e. when the policy was delivered to the Plaintiffs. Lincoln attached the petition for damages, certified Nautilus policy, affidavit of Mr. Hendricks, call notes, endorsement and invoice, and renewal quote. Lincoln stated the following: the policy provided single-family dwelling coverage to rental properties owned by Elite; Lincoln forwarded the Nautilus policy to Elite on October 8, 2021; on or about January 27, 2022, Elite contacted Lincoln for coverage of additional properties; Elite did not disclose any additional risks at the newly acquired properties that needed to be insured; the endorsement for the dwellings only was issued effective January 31, 2022; Elite paid the premium on or about February 4, 2022; an outbuilding at the Property sustained damage; Nautilus denied coverage as this building was not covered under the Nautilus Policy.

Mr. Hendricks stated in his affidavit that he asked Mr. Dodds if there were any additional risks such as pools, storage buildings, or detached garages that may require additional coverage, and Mr. Dodds did not advise him of any additional risks to be insured. Mr. Hendricks' statement is supported by his call notes, which lack any mention of additional structures. Mr. Hendricks also stated in his affidavit that the policy paperwork sent to the Plaintiffs stated the insurance was for a single-family dwelling. Exhibit 3A, an insurance proposal provided by CP Insurance Company, has a redacted value for the Property dwelling, then lists "Structures: 0."

The Plaintiffs opposed Lincoln's motion for summary judgment and alternative exception of peremption. They argued that Lincoln and Mr. Hendricks had a duty of reasonable diligence and disclosure, which was breached; they should not be held to an expert standard in interpreting insurance policies; and they needed more time to conduct discovery and depose Defendants' corporate representatives. The Plaintiffs stated that at no time prior to the issuance of the Nautilus policy or endorsement did Mr. Hendricks request detailed information from Plaintiffs about the number, type, or use of structures located on the Property, other than the address, age of the property, and information regarding the roofs, plumbing, and electrical. They alleged that had Mr. Hendricks asked such questions, they would have informed him of the detached one-bedroom apartment at the rear of the property. The Plaintiffs stated that they thought Mr. Hendricks would conduct an inspection of the insured property and/or request photographs in order to ensure adequate and accurate coverage. The Plaintiffs alleged that they believed both structures would be covered by the policy. They stated that they did not have reasonable, actual, or constructive knowledge of the alleged omission before the loss occurred on September 9, 2022.

The Plaintiffs opposed SGA's motion for summary judgment, making arguments similar to those in opposition to Lincoln's motion. Lincoln filed objections and a reply in support of its motion for summary judgment and exception of prescription. It stated that the Plaintiffs' statement of contested material facts was improper and without competent evidence in support. Lincoln argued that the claim was prescribed and the Plaintiffs were not being held to an expert standard of knowledge of insurance policies. SGA responded to the Plaintiffs' opposition and included a motion to strike the Plaintiffs' exhibits, namely the October 4, 2022 correspondence from Nautilus; September 13, 2022 email from Bryant Wilcox; affidavit of Dalton Dodds; and February 4, 2022 email from Jennifer Gurgainers. It argued that except for the affidavit, the exhibits do not fall within the exclusive list of documents that may be filed in a motion for summary judgment, are hearsay, are not relevant, and not properly authenticated.

On June 23, 2025, the parties entered into a consent judgment of dismissal, which dismissed with prejudice Mr. Dodds' claims against

Lincoln. Also dismissed with prejudice were the Plaintiffs' claims for bad faith adjusting, penalties, and attorney fees pursuant to La. R.S. 21:1892 and 22:1973.

The hearing on the motions for summary judgment was held on June 27, 2025. The Defendants argued that the claim falls under La. R.S. 9:5606 and its peremptive period. The parties disagreed about whether it was Mr. Dodds' responsibility to alert Mr. Hendricks to the additional structure or Mr. Hendricks' responsibility to ask questions and investigate the property, which would have led him to knowledge of the additional structure.

On September 10, 2025, the trial court filed written reasons regarding the applicability of La. R.S. 9:5606. The trial court stated that it was unnecessary to address the motions for summary judgment urged in this case. It determined that the record supports a ruling that, under La. R.S. 9:5606, the applicable time period expired in this case prior to the filing of this lawsuit such that the Plaintiffs' claims must be dismissed, with prejudice, and at the Plaintiffs' cost. The trial court signed a judgment of dismissal on September 30, 2025. The Plaintiffs now appeal.

DISCUSSION

Peremption

The Plaintiffs assert that the trial court erred in sustaining the Defendants' exception of prescription/peremption. They argue that prescription was not apparent on the face of the petition, and the defect in coverage was not discovered until after the September 9, 2022 loss claim denial.

The party raising an exception of prescription or peremption ordinarily bears the burden of proof at the trial of a peremptory exception;

however, when prescription is evident from the face of the pleadings, the plaintiff bears the burden of showing the action has not prescribed. *Cote' v. Hiller*, 49,623 (La. App. 2 Cir. 2/27/15), 162 So. 3d 608. If evidence is introduced at the hearing on the peremptory exception of prescription, the district court's findings of fact are reviewed under the manifest error-clearly wrong standard of review; if the findings are reasonable in light of the record reviewed in its entirety, an appellate court may not reverse even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently. *Id*.

La. R.S. 9:5606 governs actions against insurance agents and states, in part:

> A. No action for damages against any insurance agent, broker, solicitor, or other similar licensee under this state, whether based upon tort, or breach of contract, or otherwise, arising out of an engagement to provide insurance services shall be brought unless filed in a court of competent jurisdiction and proper venue within one year from the date of the alleged act, omission, or neglect, or within one year from the date that the alleged act, omission, or neglect is discovered or should have been discovered. However, even as to actions filed within one year from the date of such discovery, in all events such actions shall be filed at the latest within three years from the date of the alleged act, omission, or neglect.
>
> ***
>
> D. The one-year and three-year periods of limitation provided in Subsection A of this Section are peremptive periods within the meaning of Civil Code Article 3458 and, in accordance with Civil Code Article 3461, may not be renounced, interrupted, or suspended.

An agent has a duty of "reasonable diligence" to advise the client, but this duty has not been expanded to include the obligation to advise whether the client has procured the correct amount or type of insurance coverage. It is the insured's responsibility to request the type of insurance coverage and the amount of coverage needed. It is not the agent's obligation to spontaneously or affirmatively identify the scope or the amount of insurance coverage the client needs. *Isidore Newman Sch. v. J. Everett Eaves, Inc.*, 09-2161 (La. 7/6/10), 42 So. 3d 352.

The one-year peremptive period begins to run from the date the plaintiff discovered or should have discovered the alleged act, omission, or neglect. *See Huffman v. Goodman*, 34,361 (La. App. 2 Cir. 4/4/01), 784 So. 2d 718, *writ denied*, 01-1331 (La. 6/22/01), 794 So. 2d 791. An insured is on notice of any alleged claim or misrepresentation made regarding the sale of a policy, and the peremptive period begins to run when the insured receives a copy of the policy. *Merhige v. Pac. Life Ins. Co.*, 24-520 (La. App. 5 Cir. 7/16/25), 420 So. 3d 185. It is well settled that it is the insured's obligation to read the policy when received, since the insured is deemed to know the policy contents. *Seruntine v. State Farm Fire & Cas. Co.*, 10-1108 (La. 9/3/10), 42 So. 3d 968; *Isidore Newman Sch., supra.*

The Plaintiffs argue the peremptive period should not have begun to run until October 2022, when their claim was denied. However, the law states that it begins on the day they knew or should have known of the defective policy. They should have known of the defect when they received their policy information and read the policy. The Plaintiffs already owned the policy, this property was added to their existing policy on January 31, 2022, and the premium was paid on February 4, 2022. The policy stated it covered a "single family dwelling," and no additional structures were listed. At this time, the Plaintiffs were on notice that there was a possible policy defect as to any other structures the Plaintiffs thought would be covered.[1] The loss to the additional structure occurred on September 9, 2022, and the Plaintiffs filed suit on September 8, 2023. The Plaintiffs filed suit over a year and a half after the insurance policy was issued, well outside the one-year peremptive period provided in the statute. Accordingly, this assignment of error lacks merit, and we affirm the trial court's judgment granting the exception of prescription/peremption.

Discovery

Next, the Plaintiffs argue that the trial court erred in denying them a reasonable opportunity to conduct discovery, including discovery related to the undersigned endorsement and complete policy documents, prior to ruling on the Defendants' exception of prescription.

It is well established that trial courts in Louisiana have broad discretion when regulating pretrial discovery, which discretion will not be disturbed on appeal absent a clear showing of abuse. *Moak v. Illinois Central*, 93–0783 (La. 01/14/94), 631 So. 2d 401; *Office Furniture Outlet, Inc. v. Grau*, 44,228 (La. App. 2 Cir. 5/27/09), 12 So. 3d 1065.

The Plaintiffs filed their suit on September 8, 2023, SGA's motion for summary judgment was filed on March 11, 2025, and Lincoln's motion for summary judgment/exception of prescription was filed on March 20, 2025. The year and a half between the filing of the suit and filing of the motions/exception was ample time in this case for Plaintiffs to conduct discovery related to the endorsement and complete policy documents. The

[1] Requiring a lay person to read their policy does not require an expert standard of insurance policy knowledge. The policy covered a single-family dwelling, singular, and did not list any additional structures. This language was enough to provide constructive notice in this case.

trial court did not err in ruling on the Defendants' exception of prescription. This assignment of error lacks merit.

CONCLUSION

For the reasons stated above, we affirm the trial court's judgment. Costs associated with this appeal are cast on Plaintiffs.

AFFIRMED.