

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

No. 57,054-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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NATERRIA PRATT

Plaintiff-Appellant

versus

THE CITY OF MONROE & JOHNNY STEVENSON

Defendants-Appellees

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Appealed from the
Fourth Judicial District Court for the
Parish of Ouachita, Louisiana
Trial Court No. 2025-3880

Honorable Bernard Scott Leehy, Judge

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JAMES RAY HERRON

Counsel for Appellant

LAURA MOORE-MILLER

Counsel for Appellees

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Before THOMPSON, ROBINSON, and ELLENDER, JJ.

ROBINSON, J.

Natterria Pratt appeals a judgment sustaining the exception of prescription and dismissing her second personal injury lawsuit against the City of Monroe (“Monroe”) and one of its employees. For the following reasons, we affirm the judgment.

FACTS

Pratt alleges that she was injured on December 21, 2023, when a streetsweeper owned by Monroe and operated by one of its employees, Johnny Stevenson, backed into her vehicle.

On December 18, 2024, Pratt filed a personal injury lawsuit against Monroe and Stevenson. Service was withheld. The defendants subsequently raised the exception of insufficiency of service of process and filed a motion for involuntary dismissal.

On October 10, 2025, Pratt filed a second personal injury lawsuit against Monroe and Stevenson.

On October 16, 2025, the trial court rendered judgment sustaining the exception of insufficiency of service of process, granting the motion for involuntary dismissal, and dismissing the original lawsuit without prejudice.

On November 4, 2025, the defendants raised the exception of prescription. They maintained that the second lawsuit was prescribed on its face because the prescriptive period at the time of the accident was one year. Thus, the burden shifted to Pratt to establish a suspension or interruption of prescription. The defendants argued that under La. R.S. 13:5107(D), the original lawsuit did not interrupt or suspend prescription since it was dismissed because of the failure to timely request service.

Pratt argued in opposition to the exception that the defendants were not subject to prescriptive rules applied to state agencies, and that the second lawsuit was not prescribed because it was filed while the timely filed original lawsuit was still pending. The judgment dismissing the original lawsuit was attached to Pratt's opposition as an exhibit.

Relying on the provisions of La. R.S. 13:5107(D)(3), the trial court sustained the exception of prescription and dismissed the second lawsuit with prejudice. Pratt has appealed.

DISCUSSION

The standard of review of a judgment pertaining to an exception of prescription turns on whether evidence is introduced at the hearing of the exception. *Mitchell v. Baton Rouge Orthopedic Clinic, L.L.C.*, 21-00061 (La. 10/10/21), 333 So. 3d 368. When no evidence is submitted at the hearing, the exception is decided upon the facts alleged in the petition with all of the allegations accepted as true. *Id.* The reviewing court is then simply assessing whether the trial court was legally correct in its finding. *Id.* Even when evidence is introduced, if there is no dispute regarding material facts, the reviewing court applies a *de novo* standard of review, and gives no deference to the trial court's legal conclusions. *Id.*

At the time of the accident, La. C.C. art. 3492 provided a prescriptive period of one year for delictual actions. Act 423 of 2024 repealed art. 3492 and enacted La. C.C. art. 3493.1, which now provides a prescriptive period of two years for delictual actions. Section 3 of Act 423 states that it "shall be given prospective application only and shall apply to delictual actions arising after the effective date of this Act." Act 423 has an effective date of

July 1, 2024. Thus, Pratt’s cause of action was subject to a prescriptive period of one year.

The burden of proving prescription ordinarily lies with the party raising the exception; however, when prescription is evident from the face of the petition, the burden shifts to the plaintiff to show the action has not prescribed. *Mitchell, supra*. Prescription was evident from the face of the second lawsuit, which shifted the burden to Pratt. While Pratt relied on the original lawsuit to establish interruption, that original lawsuit was not introduced into evidence at the hearing on the exception of prescription.

Pratt argues on appeal that the trial court erred in finding that the first suit did not interrupt prescription under La. C.C. art. 3462. She next argues that the trial court erred in applying La. R.S. 13:5107(D)(3) when Monroe is not a state agency and that statute only applies to suits against the state and its agencies. Finally, she argues that the trial court erred in not finding that the first lawsuit interrupted prescription when the second lawsuit was filed before the first one was dismissed. These arguments are without merit.

We first address the provisions of the Louisiana Governmental Claims Act (“LGCA”), which are found in La. R.S. 13:5101, *et seq.* It applies to:

any suit in contract or for injury to person or property against the state, a state agency, an officer or employee of the state or a state agency arising out of the discharge of his official duties or within the course and scope of his employment, or a *political subdivision of the state, as defined herein, or against an officer or employee of a political subdivision* arising out of the discharge of his official duties or within the course and scope of his employment. The provisions of this Part shall not supersede the provisions of R.S. 15:1171 *et seq.* or R.S. 15:1181 *et seq.*

La. R.S. 13:5101(B). Emphasis added.

La. R.S. 13:5102(B)(1) defines a political subdivision as “[a]ny parish, *municipality*, special district, school board, sheriff, public board, institution, department, commission, district, corporation, agency, authority, or an agency or subdivision of any of these, and other public or governmental body of any kind which is not a state agency.” Emphasis added.

Regarding service of citation upon a political subdivision or its employee, La. R.S. 13:5107 states:

D. (1) In all suits in which the state, a state agency, or *political subdivision, or any officer or employee thereof is named as a party*, service of citation shall be requested within ninety days of the commencement of the action or the filing of a supplemental or amended petition which initially names the state, a state agency, or *political subdivision or any officer or employee thereof* as a party. This requirement may be expressly waived by the defendant in such action by any written waiver. If not waived, a request for service of citation upon the defendant shall be considered timely if requested on the defendant within the time period provided by this Section, notwithstanding insufficient or erroneous service.

(2) If service is not requested by the party filing the action within the period required in Paragraph (1) of this Subsection, the action shall be dismissed without prejudice, after contradictory motion as provided in Code of Civil Procedure Article 1672(C), as to the state, state agency, or *political subdivision, or any officer or employee thereof*, upon whom service was not requested within the period required by Paragraph (1) of this Subsection.

(3) When the state, a state agency, or a *political subdivision, or any officer or employee thereof*, is dismissed as a party pursuant to this Section, the filing of the action, even as against other defendants, shall not interrupt or suspend the running of prescription as to the state, state agency, or *political subdivision, or any officer or employee thereof*; however, the effect of interruption of prescription as to other persons shall continue.

Emphasis added.

Monroe is a political subdivision as defined in the LGCA. Stevens is an employee of Monroe. Thus, under the plain terms of La. R.S. 13:5107(D), the provisions of that statute apply to both defendants in the original and second lawsuits.

The first lawsuit was dismissed in accordance with La. R.S. 13:5107(D). Therefore, under Subsection (D)(3), it did not interrupt or suspend the running of prescription against Monroe or Stevenson.

Pratt next maintains that it makes a difference that her second lawsuit was filed before her first lawsuit against defendants was dismissed. This argument was rejected by the supreme court in *Davis v. State through Louisiana Racing Commission*, 20-01020 (La. 5/13/21), 320 So. 3d 1028.

Davis filed a timely lawsuit against the racing commission, two state defendants, and several other individuals. However, he failed to request service on the Louisiana Attorney General or the Office of Risk Management within 90 days of filing suit. His lawsuit was dismissed without prejudice under La. R.S. 13:5107(D)(2). One day before the hearing that led to the dismissal, Davis filed a second lawsuit asserting the same allegations against the same state defendants as in his first lawsuit. The state defendants filed an exception of prescription in response to the second lawsuit. They asserted that under La. R.S. 13:5107(D)(3), the first lawsuit did not interrupt or suspend prescription as to them. Relying on La. C.C. art. 3463, Davis argued in opposition to the exception that the second lawsuit was timely because prescription was interrupted by the first lawsuit, and the interruption continued for as long as it was pending. The trial court found

that the first lawsuit interrupted prescription under La. C.C. arts. 3462 and 3463, and denied the exception. The supreme court concluded otherwise.

The supreme court determined that the trial court's reliance on arts. 3462 and 3463 was misplaced as the trial court failed to consider the more specific statute, La. R.S. 13:5107(D)(3). The supreme court concluded that La. R.S. 13:5107(D)(3) applied and it could not be harmonized with arts. 3462 and 3463.¹ In fact, the supreme court found there was an actual conflict between the code articles and La. R.S. 13:5107(D)(3) because the statute provides for no interruption at all after a dismissal under the subsection where the state was a defendant.

The supreme court ultimately determined in *Davis* that La. R.S. 13:5107(D)(3)'s plain language prohibited Davis from relying on his original petition in any manner for the interruption of prescription against the state defendants. Accordingly, it is of no moment that Pratt's first lawsuit was still pending when she filed her second lawsuit.

CONCLUSION

For the foregoing reasons, the trial court correctly sustained the exception of prescription and dismissed Pratt's second lawsuit. At Pratt's costs, the judgment is affirmed.

¹ Rules of statutory construction provide that where two statutes deal with the same subject matter, they should be harmonized if possible; however, if there is a conflict, the statute specifically directed to the matter at issue must prevail as an exception to the more general provision. *Davis, supra*; *LeBreton v. Rabito*, 97-2221 (La. 7/8/98), 714 So. 2d 1226.