

Judgment rendered September 30, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,126-CA
No. 57,127-CA
(Consolidated Cases)

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

FIRST TOWER LOAN, LLC,
D/B/A TOWER LOAN OF
WINNFIELD

versus

VICTORIA WRIGHT, A/K/A
VICTORIA DANIELA WRIGHT,
A/K/A VICTORIA D. WRIGHT

Defendant-Appellee

* * * * *

consolidated with

* * * * *

FIRST TOWER LOAN, LLC,
D/B/A TOWER LOAN OF
WINNFIELD

versus

DONNA K. CHEEK, A/K/A
DONNA CHEEK AND HARVEY
CHEEK, A/K/A HARVEY P.
CHEEK, JR.

Defendants-Appellees

* * * * *

Appealed from the
Eighth Judicial District Court for the
Parish of Winn, Louisiana
Trial Court Nos. 47,595 and 47,603

Honorable Anastasia S. Wiley, Judge

* * * * *

ROGERS, CARTER & PAYNE, LLC
By: Jessica L. Greber

DONNA K. CHEEK

In Proper Person

HARVEY P. CHEEK, JR. In Proper Person

* * * * *

Before COX, STEPHENS, and THOMPSON, JJ.

THOMPSON, J.

In these consolidated cases, First Tower Loan LLC, d/b/a Tower Loan of Winnfield (hereinafter “Tower Loan”), appeals five default judgments in which the district court rendered judgments without a hearing for amounts different from those alleged in the petitions, verified in the affidavits of correctness, and stated in the proposed judgments. For the reasons expressed, we amend the judgments to conform to the records and, as amended, render. A separate opinion is issued for each borrower.

FACTS AND PROCEDURAL HISTORY

Tower Loan is a consumer finance company providing personal, installment based credit to consumers with limited credit history and lower credit scores who have less access to conventional bank and credit union lending. Accompanying the higher risk of default assumed by Tower Loan from these customers come higher interest rates and higher loan fees charged. There are state regulations on the amount of the maximum interest a consumer finance company may charge its customers, which oftentimes is significantly higher than mainstream credit options. *See* La. R.S. 9:3519. The high risk of default assumed by Tower Loans is evidenced in these five consolidated cases in which the various borrowers failed or refused to make the agreed-upon payments, necessitating Tower Loan to institute collection proceedings.

In this matter, Donna K. Cheek, A/K/A Donna Cheek and Harvey Cheek A/K/A Harvey P. Cheek Jr., of Winnfield, took out a loan from Tower Loan on July 6, 2023. The amount financed was \$9,139.61, at a stated Annual Percentage Rate “APR” of 28.26%, requiring the Cheeks to

make 30 payments of \$433.00 each, for a total of \$12,990.00. Their final payment was to be July 6, 2025, but, according to Tower Loan's petition, their last payment was on December 18, 2023, leaving a balance owed of \$8,119.27.

Tower Loan filed this suit¹ seeking the unpaid balance of \$8,119.27, together with contractual interest of 27.60% per annum for one year beginning April 16, 2024, and 18% thereafter (as limited by La. R.S. (9:3522). The petition prayed for late charges, court costs, collection costs, contractual attorney fees, and a recognition of its security interest in the movables described in the loan agreement.

When the Cheeks filed no responsive pleading, Tower Loan moved for default judgment. In support, Tower Loan attached an affidavit of correctness executed by Charlie Hawkins, an officer of the company, verifying that the balance due was \$8,119.27 and that the interest rate, under the loan agreement, was 27.60% for one year beginning February 21, 2024, and 18% thereafter until paid. Tower Loan also provided a proposed judgment stating this balance due, interest rate, and other matters not germane to this appeal.

The district court rendered judgment on September 16, 2024. On the proposed judgment provided by Tower Loan, the court drew a line through the interest rate of 27.60% and 18%, and changed it by inserting "legal" interest in its place. The trial court made these substantive changes to Tower Loan's proposed judgment without setting the matter for a hearing on confirmation of default, as required by La. C. C. P. art. 1702.

¹ April 29, 2024

TOWER LOAN – ACT I

Tower Loan had previously filed in the Eighth Judicial District Court, fifteen (15) different suits to collect the balances of consumer loans. As is the case currently, Judge Anastasia S. Wiley was the presiding judge over each of those matters, and in each request by Tower Loan for a default judgment she reduced the interest rate, the principal balance owed, or both, without a hearing. Tower Loan appealed those decisions to this Court, and in our opinion, rendered judgment on May 21, 2025,² we clarified:

- The district court lacked authority to deviate from the procedures set forth in La. C. C. P. art. 1702 for altering the amount prayed for without a hearing.
- The district court lacked authority to render a judgment for a principal amount other than that owed.
- The district court lacked authority to award interest different from that stated in the loan agreement, the petition and the affidavit of correctness.

Accordingly, this Court amended the judgment of each of those fifteen cases to correct the amount of the balance owed and of the accruing interest rate for each loan, which notice was sent to the trial court in May 2025.

TOWER LOAN – ACT II

In April and May of 2024, long before the May 2025 opinion of this Court noted above, Tower Loan instituted five additional actions to recover the unpaid balances of consumer loans to five other defendants. Default

² See *First Tower Loan, LLC v. Combs*, 56,236 (La. App. 2 Cir. 5/21/2025), 411 So. 3d 1010.

judgments were once again obtained by Tower Loan and signed by district court on September 15, 2024. Several months later when Tower Loan received this Court's opinion rejecting the earlier actions of the trial court to revise the principal balance and interest rate on its previous cases (Tower Loan Act I), it then sought to have the same actions by the district court in these five consolidated cases similarly corrected to comply with this Court's opinion and applicable law. It should be noted that the action of the district court on the current five cases (Tower Loan Act II) in September 2024, were similar to its previous actions and occurred *prior* to rendition by this Court of an opinion contrary to those actions.

On August 6, 2025, within one (1) year of the October 3, 2024 Notice of Judgment, and within one (1) year of this Court's May 21, 2025 opinions in Tower Loan – Act 1, Tower Loan filed a motion to annul the judgments in each of the current five matters in Tower Loan – Act 2. This Court's opinions in the Tower Loan Act I cases had been received by the district court by this time. Tower Loan argued that the trial court's September 16, 2024 judgments should be annulled for a vice of substance under La. C. C. P. art. 2004(A), because the judgments were obtained by ill practices.

Following a hearing on Tower Loan's unopposed motion to annul judgments, the trial court took the matter under advisement. On November 12, 2025, the trial court issued a written order/judgment denying annulment of the judgments. The trial court's judgments were a simple denial and did not cite any findings of fact or provide written reasons. This appeal followed.

DISCUSSION

Assignment of Error No. 1: The trial court erred in denying Tower Loan's Motion to Annul Judgment for a vice of substance because the judgment was rendered through ill practices.

Tower Loan argues that La. C. C. P. art. 2004 provides for annulment of a final judgment obtained by fraud or ill practices. Tower Loan asserts that an "ill practice" is not limited to cases of actual fraud or intentional wrongdoing but also includes any improper practices or procedures which operate to prevent an opposing party from having an opportunity to appear or assert a defense.

In the prior set of Tower Loan cases, *Combs, supra.*, (Tower Loan Act I) this Court held that the district court lacked authority to deviate from the two alternatives granted in La. C. C. P. art. 1702(C) – signing the proposed default judgment or ordering a hearing, and that it was error to render judgment for a different principal or interest rate. In the present appeal, Tower Loan argues that this Court's prior ruling in *Combs, supra.*, establishes that the trial court's practice of making substantive changes to proposed default judgments without first setting the matter for hearing and allowing the mover to appear and be heard is an improper procedure not authorized by Louisiana law. Tower Loan argues that the judgments rendered in these cases were rendered by an ill practice and can be annulled due to a vice of substance in accordance with La. C. C. P. art. 2004.

Based on the timeline noted above, we decline to hold that the trial court committed an ill practice in violation of La. C. C. P. art. 2004. As examined by the Louisiana Supreme Court in *Johnson v. Jones-Journet*, 320 So. 2d 533 (La. 1975), La. C. C. P. art. 2004 includes no definition of the

term “ill practices.” Here, we note Tower Loan has been deprived of no legal right and has been able to assert its position before this Court. It is well settled that an action of nullity may not, by raising errors of law, serve as a substitute for appeal. The actions by the trial court do not amount to fraud or ill practices. However, we acknowledge that the trial court committed a substantial error when it failed to annul the judgments containing its substantive changes upon learning of our ruling in *Combs, supra*.

When the trial court became aware of our ruling in *Combs, supra*, and considered Tower Loan’s motions to annul judgment, the trial court should have reverted to the proposed judgments submitted by Tower Loan. In light of *Combs, supra*, and in consideration of the entire record before us, we will amend the erroneous judgments and render, correcting the substantive errors contained in the judgments at issue. La. C. C. P. art. 2164.³

Compliance with Art. 1702

Tower Loan urges the court erred in failing to accept Tower Loan’s affidavit of correctness, submitted in support of the proposed default judgment, as prima facie proof of the indebtedness owed under the promissory note, as required by La. C.C.P. art. 1702(B)(3). Tower Loan urges the court erred in failing either to sign the proposed default judgment or direct that a hearing be held, as required by La. C.C.P. art. 1702(C).

For the reasons expressed in *First Tower Loan v. Combs*, 56,236 (La. App. 2 Cir. 5/21/25), we find the district court lacked authority to disregard

³ La. C. C. P. art. 2164 provides, in pertinent part, the appellate court shall render any judgment which is just, legal, and proper upon the record on appeal.

the affidavit of correctness, erred in not signing the proposed judgment, and erred in not granting the motion to annul judgment.

Award of Interest

Tower Loan urges the court erred in failing to award interest as prayed for and as mandated by La. C.C.P. art. 1921. Tower Loan urges the court erred in reducing interest in the judgment to “legal interest” from the amount stated in the loan agreement, contrary to La. R.S. 9:3519 and 9:3522.

The loan agreement states that the amount financed was \$9,139.61. Under R.S. 9:3519, Tower Loan could charge interest of 21% on the portion of the principal that exceeds \$7,000 (this portion would be \$2,139.61); 24% on the portion of the principal that exceeds \$4,000 but does not exceed \$7,000 (this portion would be \$3,000); 27% on the portion that exceeds \$1,400 but does not exceed \$4,000 (this portion would be \$2,600); and 36% on the remaining portion. The affidavit states that these rates, properly apportioned, yield a contractual rate of 27.60%. Moreover, the Cheeks’ loan was accelerated on April 16, 2024; hence, after April 16, 2025, the interest cannot exceed 18%. The amount prayed for in the petition, and stated in the proposed judgment, complies with the applicable laws.

The trial court lacked authority to award interest different from that stated in the loan agreement, the petition, and the affidavit. The judgment will be amended to provide the contractual and legal rate.

DECREE

For the reasons expressed, the interest stated in the judgment is amended as follows:

IT IS ORDERED, ADJUDGED, AND DECREED that there be judgment herein in favor of plaintiff, FIRST TOWER

LOAN, LLC, d/b/a TOWER LOAN OF WINNFIELD, and against defendant, DONNA K. CHEEK, A/K/A DONNA CHEEK (SSN XXX-XX-4194) and HARVEY CHEEK A/K/A HARVEY P. CHEEK JR. (SSN XXX-XX-4725), in the amount of \$8,119.27, together with interest at 27.60% per annum for one year beginning April 16, 2024, and 18% thereafter, until paid.

In all other respects, the judgment is affirmed. All costs are to be paid by the borrowers, Donna K. Cheek, A/K/A Donna Cheek and Harvey Cheek A/K/A Harvey P. Cheek Jr.

AMENDED, AFFIRMED AS AMENDED, AND RENDERED.