Judgment rendered November 18, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,178-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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PRINCE OF PEACE AUTO SALE LLC — Plaintiff-Appellant

versus

CITY OF MONROE UTILITY OPERATIONS — Defendant-Appellee

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Appealed from the
Fourth Judicial District Court for the
Parish of Ouachita, Louisiana
Trial Court No. 2025-0843

Honorable Walter Meter Caldwell, IV, Judge

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BRIGETTE SWAYZER — In Proper Person, Appellant

BRANDON W. CREEKBAUM
City Attorney

SYDNEE C. CLARY
Assistant City Attorney — Counsel for Appellee

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Before STEPHENS, THOMPSON, and ELLENDER, JJ.

ELLENDER, J.

Brigette Swayzer, the owner of Prince of Peace Auto Sale LLC and appearing in proper person, appeals a judgment that sustained the City of Monroe's exception of no cause of action and dismissed her claims for property and other damages arising from a winter freeze event in which the pipes in her business burst. We affirm.

PROCEDURAL HISTORY

Because the matter was decided on the exception of no cause of action, this court will focus on the allegations of Swayzer's three petitions.

Petition No. 1. The original petition, handwritten and not divided into numbered paragraphs, named Prince of Peace Auto Sale LLC as plaintiff and "City of Monroe Utility Operations" as defendant. Swayzer alleged that, for the week of January 20-24, 2024, a freeze warning was issued. She did not worry about her business, Prince of Peace, because the "water company" had previously issued a disconnect notice for nonpayment of water bills. However, the water was still on, so on January 21, she phoned the "water company," first around 8:30 am and again around 11:00 am, leaving messages with a "Mrs. Sherry" to get somebody to come cut off her water; Mrs. Sherry said she would have somebody call her back, but this never happened. The freeze hit on January 22-23; Swayzer called back on January 24, and Mrs. Sherry again said she would get the manager to call her. However, the manager never called. On January 26, Swayzer went to the property and found her pipes had burst, soaking the ceiling and drenching the interior. She called Mrs. Sherry once again, on January 27, but this time Mrs. Sherry claimed not to remember their three prior conversations and insisted the damage was not the City's fault. Swayzer

alleged her final water bill before the freeze was $465.21, and after, $700.27, so the City was charging her $344.60 for the water that flooded her business. (The actual difference is $235.06.) She prayed for damages to her "computers, building, ceiling, pipes, floor's [*sic*], office furniture, and any other problems that might arise." She attached to her petition a copy of the termination notice stating the cutoff date for nonpayment would be January 28, 2024.

The City filed a set of exceptions, including lack of procedural capacity to be sued, as "Utility Operations" was merely a division of the City, under Monroe City Charter, § 4-06, and not a juridical person; and unauthorized representation, as the claim exceeded the $5,000 pro se maximum of $5,000 set out in La. R.S. 37:212 (C).

Petition No. 2. In response, Swayzer filed an amended petition. This document, also handwritten and not divided into paragraphs, merely changed the plaintiff to Brigette Swayzer and the defendant to City of Monroe. No new facts were alleged.

The City answered, admitting it did not turn off the water to Swayzer's building but arguing it had no duty to do so. The City also asserted comparative negligence, Act of God, discretionary immunity under La. R.S. 9:2798.1, and other defenses.

Petition No. 3. In response, Swayzer filed an "amended and supplemental petition for damages." This document was typed on a word processor and broken into numbered sections, the first of which she labeled "Additional Facts." She alleged that, based on the disconnect notices, she "reasonably believed" the water would be cut off for nonpayment; prior to the freeze, she contacted the City and asked for the water to be disconnected;

the City refused to do so; the City never advised her the water connection was still active after the disconnect notices; and, under the City's code and procedures, only public works employees are authorized to shut off water following a scheduled disconnect date. She labeled her causes of action as (1) detrimental reliance, (2) negligent misrepresentation, (3) negligent undertaking, (4) operational negligence, and (5) failure to produce policies and procedures.

The City responded with the exception of no cause of action. It argued no cause of action can exist without the existence of a legal duty, and Swayzer had not established any legal duty to disconnect water service to a customer's privately owned plumbing. A detrimental reliance claim requires a "clear and unambiguous promise," and, by contrast, a "routine disconnect notice" is not such a promise. In support, it cited *Harris v. Bd. of Supers.*, 21-0844 (La. App. 1 Cir. 2/25/22), 340 So. 3d 1121. Further, the disconnect notice gave a cutoff date of January 28, 2024, and it was unreasonable for Swayzer to think her water would be cut off any sooner than that. Finally, there is no "statute, ordinance, or regulation imposing a duty on a municipal water provider to disconnect water service to prevent freeze damage to a customer's private plumbing system," as the court found in the analogous situation of an electricity provider in *La Pac Mfg. Inc. v. TCM Mfg. Inc.*, 06-0748 (La. App. 3 Cir. 12/6/06), 944 So. 2d 831, *writ denied*, 07-0042 (La. 3/9/07), 949 So. 2d 445.

ACTION OF THE DISTRICT COURT

After a hearing in May 2026, the district court found, "I haven't been provided with any statute, case, or policy * * * that tells me they [the City] have an obligation to do so [cut off the water]. * * * I don't think that your

reliance on them shutting it off was reasonable under the circumstances."

The court rendered judgment sustaining the exception and dismissing Swayzer's claims.

Swayzer appealed.

SWAYZER'S POSITION

By pro se brief, Swayzer designates seven assignments of error:

(1) The court committed legal error by sustaining the City's peremptory exception of no cause of action because plaintiff's petition alleged sufficient operative facts which, if accepted as true, state one or more legally recognized causes of action under Louisiana law.

(2) The court committed legal error by concluding that defendant owed plaintiff no legal duty as a matter of law at the pleading stage.

(3) The court improperly resolved factual disputes and drew factual inferences against plaintiff rather than accepting the well-pleaded allegations of the petition as true.

(4) The court erred by dismissing plaintiff's detrimental reliance claim despite allegations sufficient to satisfy the elements of La. C.C. art. 1967.

(5) The court erred in concluding that plaintiff failed to state claims for negligence misrepresentation, negligent undertaking, and operational negligence.

(6) The court erred by applying discretionary immunity under La. R.S. 9:2798.1 to allegations describing routine operational conduct at the pleading stage.

(7) The court erred by dismissing plaintiff's claims with prejudice rather than permitting amendment if additional factual allegations were deemed necessary.

The main thrust of her argument is that, at the pleading stage, "plaintiff was not required to prove the existence of a duty; she was required only to allege facts that, if proven, could support the recognition of such a duty under Louisiana law." She offers no authority for this assertion.

She also contends that, because the City disputed all her factual claims, the court improperly resolved factual disputes on the exception instead of deferring them to trial on the merits. Specifically, she claimed to be reasonable in relying on the disconnect notice, and this would support a cause of action for detrimental reliance. Again, no authority is offered.

Further, she argues, the City has exclusive control over the municipal water system, so she could not disconnect her own water; thus, she contends, the City was negligent for not disconnecting when she called to request this. As before, no legal authority is offered.

She then contends the City relied on the discretionary immunity of R.S. 9:2798.1, but the City's failure to cut off her water service when required was an abuse of that discretion. She cites R.S. 9:2798.1 but nothing particular to the discretion of a municipal water provider to disconnect service, either for nonpayment or at the customer's request.

Finally, she argues that, even if her petitions failed to state a cause of action, the court should have granted her leave to amend rather than dismissing with prejudice. Again, no authority is offered.

DISCUSSION

The peremptory exception of no cause of action is designed to test the legal sufficiency of a petition by determining whether a party is afforded a remedy in law based on the facts alleged in the pleading. *Jackson v. City of New Orleans*, 12-2742 (La. 1/28/14), 144 So. 3d 876. All well-pleaded allegations of fact are accepted as true and correct, and all doubts are resolved in favor of sufficiency of the petition so as to afford litigants their day in court. *Id*. Although the exception is tried on the face of the petition, any attachment to the petition may be considered a part thereof for purposes

of deciding the exception. *City of New Orleans v. Bd. of Dirs. of La. State Museum*, 98-1170 (La. 3/2/99), 739 So. 2d 748; *Dorsey v. Rayville Nursing & Rehab. Ctr. Inc.*, 55,985 (La. App. 2 Cir. 2/26/25), 407 So. 3d 873. Review of a district court's ruling on the exception of no cause of action is de novo. *Jackson v. City of New Orleans*, *supra*; *Dorsey v. Rayville Nursing & Rehab. Ctr.*, *supra*. When the grounds of the exception of no cause may be removed by amendment of the pleadings, the judgment sustaining the exception shall order such amendment within the delay allowed by the court. La. C.C.P. art. 934. However, if the grounds of the exception cannot be so removed, the court shall dismiss the action. *Id*.; *Jeff Mercer LLC v. State*, 20-01386 (La. 3/9/21), 312 So. 3d 252.

Louisiana applies a duty-risk analysis for assigning tort liability in a negligence claim. *Doe v. McKesson*, 21-00929 (La. 3/25/22), 339 So. 3d 524. To establish liability for any negligence claim, the plaintiff must prove five elements: (1) the defendant had a duty to conform his conduct to a specific standard (the duty element); (2) the defendant's conduct failed to conform to the appropriate standard (the breach element); (3) the defendant's substandard conduct was a cause-in-fact of the plaintiff's injuries (the cause-in-fact element); (4) the defendant's substandard conduct was a legal cause of the plaintiff's injuries (the scope of duty element); and (5) proof of actual damages (the damages element). *Campbell v. Orient-Express Hotels La. Inc.*, 24-00840 (La. 3/21/25), 403 So. 3d 573. Failure to establish any one element defeats the cause of action. *Id*.

Swayzer's petitions are not particularly well-pleaded: she initially alleged she "did not have to prepare for" the freeze and "everything was OK" because the City had previously issued a disconnect notice; yet,

because she was still getting water bills, she suspected the water was still on and called the water department several times. Reading these inconsistent claims in the light most favorable to finding a cause of action, we find no allegation that would support the existence of a duty, the first essential element of duty-risk analysis. *Campbell v. Orient-Express*, *supra*.

One possible interpretation of her claim would be the City should have disconnected her water sooner because of her failure to pay water bills; however, she has shown no general duty, under La. C.C. art. 2315, or any special statutory duty stating precisely when a municipality must terminate service for nonpayment. Obviously, a public utility may disconnect water service for nonpayment, but ultimately disconnection is subject to principles of fairness. *Wagner v. Fairway Villa Condo. Assocs. Inc.*, 01-0734 (La. App. 3 Cir. 3/13/02), 813 So. 2d 512, *writ denied*, 02-1492 (La. 9/20/02), 825 So. 2d 1174. Swayzer's disconnect notice, which was attached to her petitions, clearly identified the cutoff date as January 28, 2004, some five days *after* the freeze. Swayzer has not shown, and this court is unable to find, any duty on the part of the municipal water system to disconnect sooner than the date stated in the notice. This claim does not state a cause of action.

The only other possible interpretation is that, because of the predicted freeze and Swayzer's phone calls the day before it, the City should have promptly disconnected her water to protect her building. However, she has not shown any duty on the part of the municipal water system to shut off a customer's water because of an emergency weather event. The existence of such a wide-ranging duty would be absurdly burdensome and unworkable.

La Pac Mfg. v. TCM Mfg., *supra*. This claim does not state a cause of action.

Swayzer's next proposed basis of liability is detrimental reliance. Under La. C.C. art. 1967, a party may be obligated by a promise when he knew or should have known the promise would induce the other party to rely on it to his detriment and the other party was reasonable in so relying. *Luther v. IOM Co.*, 13-0353 (La. 10/15/13), 130 So. 3d 817. On the facts alleged, the City established January 28 as the date to disconnect Swayzer's water. Swayzer could not reasonably expect the City to do so a week earlier. This claim does not state a cause of action.

Swayzer also asserts the district court erred in applying discretionary immunity, La. R.S. 9:2798.1. The City argued it was entitled to this immunity, which covers actions "based upon the exercise or performance or the failure to exercise or perform * * * policymaking or discretionary acts which are in the course and scope" of the public entity's lawful powers and duties. R.S. 9:2798.1 (B). On de novo review, this immunity would apply, as the decision to disconnect a customer's water is subject to some discretion. However, the court found no duty for the City to cut off Swayzer's water, and hence no breach of duty, so the court did not rule on R.S. 9:2798.1, and Swayzer cannot contend the nonexistent ruling was wrong.

Swayzer's final argument is that, rather than an outright dismissal, she was entitled to an order directing her to amend her petition to remove the grounds of the exception. However, her other assigned errors disclosed no duty on the part of the City to disconnect her water before the official cutoff date or at her request on the eve of a freeze, and no promise by the City on

which she could reasonably rely. On close review, no facts Swayzer could allege will establish the duty element, as required by *Campbell v. Orien-Express*, *supra*. The outright dismissal of Swayzer's claims was proper.

CONCLUSION

For the reasons expressed, the judgment sustaining the City of Monroe's exception of no cause of action and dismissing Brigette Swayzer's claims is affirmed. All costs are to be paid by Swayzer in accordance with La. C.C.P. arts. 5186 and 5188.

AFFIRMED.