

JOSE BUEIZ, ANTHONY	*	NO. 2026-CA-0306
DAIGLE, JEREMY GEIST,	*	COURT OF APPEAL
MATTHEW MEREDITH,	*	FOURTH CIRCUIT
CHRISTOPHER POWELL,	*	STATE OF LOUISIANA
FRANCISCO AVILA, JEREMY		
CANFIELD, ARION		
TREADWAY, ADRIAN		
FLORES, DERRYL		
TREADWAY, LUIS	* * * * *	
VILLAREAL, JESUS		
CAPETILLO, AND ROBERT		
GONZALEZ		

VERSUS

**JOULE LLC AND ROBERT A.
SCHMIDT**

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2023-13837, DIVISION “N-8”
Honorable Yolanda Grinstead (Pro Tempore), Judge
* * * * *

Judge Rachael D. Johnson
* * * * *

(Court composed of Judge Joy Cossich Lobrano, Judge Tiffany Gautier Chase,
Judge Rachael D. Johnson)

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**MOTION TO DISMISS GRANTED
OCTOBER 19, 2026**

RDJ
JCL
TGC

In this civil case, Appellants, Joule, LLC and Robert A. Schmidt, appeal the district court's December 1, 2025 judgment denying their Motion to Set Aside Judgment for Lack of Service. For the foregoing reasons, we grant the Motion to Dismiss Appeal filed by Appellees, Jose Bueiz, Anthony Daigle, Jeremy Geist, Matthew Meredith, Christopher Powell, Francisco Avila, Jeremy Canfield, Arion Treadway, Adrian Flores, Derryl Treadway, Luis Villareal, Jesus Capetillo, and Robert Gonzalez.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

This is a suit involving claims for unpaid wages. On December 29, 2023, Appellees filed suit in a summary wage claim proceeding under La. R.S. 23:631, alleging Appellants owed them unpaid wages, penalty wages, and statutory attorney's fees. Though Joule, LLC employed the Appellees, they allege that Robert A. Schmidt, the sole member of the LLC, personally guaranteed payment of wages to Appellees.

Following multiple failed attempts to serve Mr. Schmidt as both a defendant and as Joule, LLC's registered agent for service, the court appointed Michael Kikuchi as special process server at Appellees' request.

According to Mr. Kikuchi's sworn affidavit, he effected personal service on Mr. Schmidt on May 15, 2024 with certified copies of the petition, citations, and the order setting a rule to show cause for July 10, 2024. At the July 10, 2024 hearing, the following colloquy took place between the court and counsel for Appellees:

MR. LINDNER:

Judge, there's been – I believe no one is here for Joule or Robert Schmidt. He was served with this date and with the citation and petition via private process server. I filed the documents into the record. I also have the originals, which I plan on introducing today.

THE COURT:

All right. Thank you. Counsel, you may proceed.

MR. LINDNER:

Yes, Your Honor. And, again, before we begin, I'd offer, file, and introduce what I've marked as Exhibit 1, which is an affidavit of service of process and the other service documents from the private process server.

THE COURT:

All right. The Court will admit them.

Appellees testified at the hearing regarding wages, penalty wages, and attorney's fees. The court found in favor of Appellees, and the judgment was reduced to a signed final judgment on July 17, 2024.¹ The next day, the court issued a notice of signing of the judgment and mailed it to both Mr. Schmidt's home mailing address and to the address registered with the Louisiana Secretary of State as Joule, LLC's place of business.

After Appellants failed to make any payments in satisfaction of the July 17, 2024 judgment, Appellees served Appellants with a judgment debtor rule. The rule was continued several times by agreement of the parties. A day before the judgment debtor examination, scheduled for September 26, 2025, Appellants

¹ Several plaintiffs did not testify at the hearing. Their claims were dismissed without prejudice.

substituted counsel and filed a Motion to Continue the Judgment Debtor Examination. The court granted the motion and reset the examination for November 7, 2025.

On October 29, 2025, Appellants filed a Motion and Incorporated [sic] Memorandum to Set Aside Judgment for Lack of Service. Appellants alleged that the July 17, 2024 judgment was absolutely null pursuant to La. C.C.P. art. 2002(A)(2)² because Mr. Schmidt was never served with the petition and citation in either his personal capacity as a defendant or as the registered agent for service of process for Joule, LLC. The hearing on the motion took place on November 18, 2025, at which Mr. Schmidt and Mr. Kikuchi testified regarding service of the original petition and citation. That same day, the district court denied the motion, concluding:

The Court has listened to the testimony with regard to the lack of service. And I guess the Court has concerns about whether or not Mr. Schmidt was actually served. He's contending that he was not served with the original petition. His company was not served with the notice of signing of judgment. A notice of signing of judgment didn't get to his home, even though the record shows that notices of signing of judgment went to his company . . . [and] went to his home The record shows that he was served by process server on May 15th of 2024.

Despite all of these services, the witness claims he didn't receive any of them. I think that belies belief.

² Louisiana Code of Civil Procedure article 2002(A)(2) states, in pertinent part:

A. A final judgment shall be annulled if it is rendered:

. . . .

(2) Against a defendant who has not been served with process as required by law and who has not waived objection to jurisdiction, or against whom a valid default judgment has not been taken.

B. Except as otherwise provided in Article 2003, an action to annul a judgment on the grounds listed in this Article may be brought at any time.

The Court is going to find that Mr. Schmidt was, in fact, served as indicated by the process server, who has no interest in this matter. And, so that the judgment debtor rule can go forward.

The ruling was reduced to a signed judgment on December 1, 2025. On January 29, 2026, Appellants filed a Motion and Order for Devolutive Appeal to appeal the district court's December 1, 2025 judgment denying their Motion to Set Aside Judgment.

On July 16, 2026, Appellees filed a Motion to Dismiss Appeal. We must first address this motion before reaching the merits of the appeal.

DISCUSSION

Appellees urge this Court to dismiss Appellants' appeal in accordance with La. C.C.P. art. 2162, which states, "An appeal can be dismissed at any time . . . for lack of jurisdiction of the appellate court." Specifically, Appellees argue that the district court's December 1, 2025 judgment denying Appellants' Motion to Set Aside Judgment was an interlocutory judgment rather than a final, appealable judgment, so this Court lacks appellate jurisdiction over this appeal. We agree.

Rather than appealing the district court's July 17, 2024 final judgment, Appellants appealed the December 1, 2025 judgment denying their Motion to Set Aside Judgment. The motion only challenged whether Mr. Schmidt was served with the original petition and citation. Therefore, the judgment denying the motion did not address the merits. According to La. C.C.P. art. 1841, a final judgment is one that determines the merits, while an interlocutory judgment does not determine the merits. "An interlocutory judgment is appealable only when expressly provided by law." La. C.C.P. art. 2083(C).

The First Circuit has previously characterized a denial of a Motion to Set Aside Judgment as an interlocutory judgment. *See Chaney v. Dept. of Pub. Safety*

& Corr. (Off. of Motor Vehicles), 2009-1543, p. 3 (La. App. 1 Cir. 3/26/10), 36 So.3d 328, 333 n.1 (“We note that Mr. Chaney actually appealed from . . . the trial court’s denial of his motion for ‘Leave to Set–Aside Judgment Denying the Writ of Mandamus and Request for Sanctions.’ This is an interlocutory judgment; it did not decide the merits of the suit.”); *see also Zeno v. JPS Containers, LLC*, 2014-0194 (La. App. 3 Cir. 3/26/14), 2014 WL 1245883, at *2 (“To the extent that Plaintiff seeks to appeal the judgment denying his motion to set aside judgment, we find that the appeal should be dismissed for having been taken from a non-appealable, interlocutory judgment.”).

Nevertheless, when an adversely affected party has appealed a non-appealable judgment, “[t]his Court has ‘exercised its discretion to convert an appeal of a non-appealable judgment into an application for supervisory writs.’” *Reed v. 21st Century Centennial Ins. Co.*, 2018-1071, p. 2 (La. App. 4 Cir. 4/17/19), 268 So.3d 1273, 1275 (citation omitted).

However, this Court has consistently declined to exercise its jurisdiction unless each of two specific circumstances are met: (1) **the motion for appeal has been filed within the thirty-day time period allowed for the filing of an application for supervisory writs under Rule 4-3 of the Uniform Rules, Courts of Appeal**; and (2) when the circumstances indicate that an immediate decision of the issue sought to be appealed is necessary to ensure fundamental fairness and judicial efficiency, such as where reversal of the trial court’s decision would terminate the litigation.

Emery v. Ben, 2023-0063, pp. 7-8 (La. App. 4 Cir. 9/28/23), 373 So.3d 112, 118 (citations omitted) (emphasis added).

In the present case, the denial of the Motion to Set Aside Judgment was reduced to a signed judgment on December 1, 2025. Appellants lodged their appeal with this Court on January 29, 2026, beyond the 30-day time period allowed for applying for supervisory writs. “Because it is required that both of the above-

mentioned circumstances be satisfied in order for us to convert this appeal to a supervisory writ, the failure to satisfy the first leaves us without any authority to exercise our discretion or jurisdiction.” *Emery*, 2023-0063, p. 8, 373 So.3d at 118.

CONCLUSION

For the foregoing reasons, we grant Appellees’ Motion to Dismiss Appeal of the above-captioned case.

MOTION TO DISMISS GRANTED