

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

SHANE FABER

NO. 2019 CW 0776

VERSUS

STATE FARM MUTUAL AUTOMOBILE
INSURANCE CO., VALLEY SUPPLY
COMPANY OF HOUMA, INC.,
BRETT MCEACHERN, AND
ALLSTATE PROPERTY & CASUALTY
INSURANCE CO.

JUNE 19, 2019

In Re: State Farm Mutual Automobile Insurance Company, Valley Supply Company of Houma, Inc., Brett McEachern, applying for supervisory writs, 32nd Judicial District Court, Parish of Terrebonne, No. 179967.

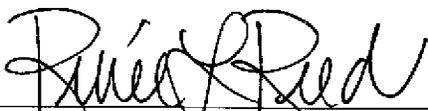
BEFORE: CRAIN, THERIOT, AND HOLDRIDGE, JJ.

WRIT GRANTED IN PART, DENIED IN PART. The portion of the trial court's May 10, 2019 ruling which granted the motion for partial summary judgment on the issue of medical causation filed by plaintiff, Shane Faber, is reversed. Notice of the hearing date was issued by the court on April 30, 2019. The parties cannot agree to a hearing date in violation of La. Code Civ. P. art. 966(B) and (C). The thirty day notice provided by La. Code Civ. P. art. 966 is mandatory and designed to give fair notice of the evidentiary and legal bases for the motion. Moreover, procedural due process requires an opportunity to be heard, in addition to notice of the pendency of an action, and in conjunction therewith, adequate notice of the hearing is fundamental. **Acadian Properties Northshore, L.L.C. v. Fitzmorris**, 2017-0424 (La. App. 1st Cir. 11/1/17), 234 So.3d 927. The writ is denied as to the portion of the judgment which granted the motion for partial summary judgment on the issues of liability and insurance coverage filed by plaintiff since defendants admitted they had no substantive opposition to this motion.

MRT
GH

Crain, J., agrees in part and dissents in part. I agree with the reversal of the ruling which granted the motion for partial summary judgment on the issue of medical causation filed by plaintiff, Shane Faber. However, I dissent and would also reverse the ruling which granted the motion for partial summary judgment on the issues of liability and insurance coverage filed by plaintiff based upon the insufficient notice.

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT