JAMES BRIDGES, SR.	NO. 24-CA-593
VERSUS	FIFTH CIRCUIT
CHUBB INDEMNITY INSURANCE COMPANY, ACE AMERICAN INSURANCE COMPANY, SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST, EAST JEFFERSON LEVEE DISTRICT, DEIDRICK GREEN, AND GOVERNMENT EMPLOYEES INSURANCE (IN ITS CAPACITY AS UNINSURED/UNDERINSURED MOTORIST CARRIER)	COURT OF APPEAL STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 819-828, DIVISION "O"
HONORABLE DANYELLE M. TAYLOR, JUDGE PRESIDING

July 02, 2025

FREDERICKA HOMBERG WICKER
JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, Marc E. Johnson, Scott U. Schlegel, and Timothy S. Marcel

<u>VACATED AND REMANDED</u>

FHW
JGG
MEJ
SUS

<u>MARCEL, J., DISSENTS WITH REASONS</u>

TSM

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS

Linda Tran
First Deputy, Clerk of Court

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CHUBB INDEMNITY INSURANCE COMPANY, ACE AMERICAN INSURANCE COMPANY, SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST, AND DEIDRICK GREEN

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WICKER, J.

This appeal presents issues concerning the statutory penalties that apply to an insurer who knowingly or arbitrarily fails to pay a settlement to a third party claimant within 30 days after a settlement agreement is reduced to writing. Such penalties are provided for in two statutes with similar, but not identical, provisions concerning the scope of the insurer's duty to a third party claimant and how the penalty for a breach of that duty is to be calculated: La. R.S. 22:1892 and 22:1973. The party seeking such penalties may recover under either statute, whichever provides the greater penalty.

In this case, the plaintiff in a personal injury action arising from an automobile accident settled his claims with the other driver, that driver's employer, and their alleged liability insurers for $450,000. The trial court found that the settlement amount was not paid timely and applied § 1892 to the penalty claim, finding that it provided the greater penalty. The court further found that the failure to pay the settlement timely was arbitrary, capricious, or without probable cause, a prerequisite to recover under § 1892, and imposed a penalty of $225,000, or half of the total settlement amount, on one of the insurance company defendants.

The defendants appealed the judgment, raising five assignments of error concerning the amount of the penalty, which they contend exceeds the maximum amount authorized by the statute, as well as the sufficiency of the plaintiff's proof of other elements of the penalty claim.

Based on the limited evidence in the record before us, we find merit in two of the defendants' assignments of error. For the reasons that follow, we vacate the judgment and remand the matter to the trial court for further proceedings.

FACTUAL AND PROCEDURAL BACKGROUND

In his petition for damages, James Bridges, Sr. (the "Plaintiff"), alleged that he was injured in an automobile accident with a vehicle being driven by Deidrick

Green, who was allegedly an employee of the Southeast Louisiana Flood Protection Authority-East ("SLFPAE") and/or the East Jefferson Levee District, acting in the course and scope of his employment at the time of the accident. Bridges alleged that the accident was caused by Green's negligence and named several defendants, including the four appellants (the "Defendants"): Green, SLFPAE, Chubb, and Ace American Insurance Company ("Ace").[1]

The Defendants have been jointly represented by the same attorneys throughout the proceedings.

In the petition, Bridges alleged, upon information and belief, that Chubb and Ace provided policies of automobile liability insurance which covered the vehicle being driven by Green for damages caused by the accident. Bridges asserted claims for damage to his vehicle, as well as general and special damages for his injuries, including past and future medical expenses, loss of earnings and earning capacity, pain and suffering, loss of enjoyment of life, and loss of consortium.

In their answer to the petition, the Defendants admitted that Ace issued an automobile liability policy on the vehicle driven by Green. They asserted that the policy was the best evidence of its contents and denied the remaining allegations against Ace and Chubb as seeking conclusions of law.

The Settlement Agreement

On April 23, 2024, Bridges and the Defendants reached a settlement agreement through mediation and signed a Mediation Settlement Agreement (the "Settlement Agreement") in which the Defendants, collectively, agreed to settle Bridges' claims for $450,000, "inclusive of all special damages." The Settlement Agreement does not indicate how the total settlement amount was calculated or how much of that amount would be paid by each defendant. The Settlement

[1] Bridges' UM carrier, Government Employees Insurance Company (GEICO), was also named as a defendant, but was later dismissed from the case and was not a party to the Settlement Agreement.

Agreement states that the settlement "will be funded within 30 days of defendants' receipt of signed release and final payment letter from CMS [the Centers for Medicare & Medicaid Services]" and that "a formal settlement agreement will be executed at a later date."[2]

According to email correspondence introduced in evidence by Bridges at the penalty hearing, defense counsel sent plaintiff's counsel an email on April 25, 2024, two days after the Settlement Agreement was signed, stating in part, "whenever you can get the CMS letter to me, I can have this check issued." The next day, April 26, 2024, plaintiff's counsel sent defense counsel the CMS letter and a copy of the Receipt and Release signed by Bridges, with the original to be provided upon receipt of the settlement check.

Motion to Enforce Settlement and for Penalties

On July 1, 2024, Bridges filed a Motion to Enforce Settlement, asserting that he had not yet received a settlement check. He requested an order to compel payment of the settlement amount, plus penalties and attorney fees, under La. R.S. 22:1892 and 1973.[3] As set forth in more detail below, these statutes establish a number of specific duties owed by an insurer to its insured, to third party claimants such as Bridges, or both, and provide penalties for an insurer's breach of those duties. The party seeking such penalties may assert a claim under both statutes,

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[2] The CMS letter provided the amount demanded by Medicare for reimbursement of payments it had made on Bridges' behalf for medical care. It is unclear from this record whether a formal settlement agreement was ever executed.

[3] These statutes have been amended frequently. We apply the statutory language that was in effect in May 2024, when Bridges' cause of action for penalties for untimely payment of settlement funds arose. *Manuel v. Louisiana Sheriff's Risk Management Fund*, 95-406 (La. 11/27/95), 664 So.2d 81, 87; *Tarver v. Eckstein Marine Service*, 93-796 (La. App. 5 Cir. 2/23/94), 633 So.2d 764, 766. Additionally, the numerical designations of both statutes were changed effective January 1, 2009. The current Section 1892 was formerly designated as La. R.S. 22:658. The current Section 1973 was formerly designated as La. R.S. 22:1220. Unless the context requires a reference to the former section numbers, we shall use the current section numbers in this opinion.

but may only recover a penalty under one of the two, the one that provides the greater penalty under the circumstances of the case.[4]

The pertinent provisions of Section 1892, briefly stated and with emphasis added, direct that an insurer "**shall pay the amount of any third party property damage claim and of any reasonable medical expenses claim due any bona fide third party claimant** within thirty days after written agreement of settlement of the claim from any third party claimant." § 1892(A)(2), effective 8/1/23–6/30/24. An insurer's failure to make "**such payment** within thirty days after **written agreement or settlement as provided in Paragraph (A)(2) of this Section when such failure is found to be arbitrary, capricious, or without probable cause, shall subject the insurer to a penalty**, in addition to the amount of the loss, **of fifty percent damages on the amount found to be due from the insurer to the insured**," or $1,000, whichever is greater, "payable to the insured," as well as reasonable attorney fees and costs. § 1892(B)(1)(a), effective 8/1/23–6/30/24.

The pertinent provisions of § 1973, briefly stated and with emphasis added, direct that an insurer who **"knowingly" fails to pay "a settlement" with** an insured or **a claimant** within thirty days after an agreement is reduced to writing **"shall be liable for any damages sustained as a result of the breach"** and **"may" be assessed with a penalty "in an amount not to exceed two times the damages sustained" as a result of the insurer's breach of the duties imposed under the statute**, or $5,000, whichever is greater. § 1973(A), (B)(2), (C), as interpreted in *Durio v. Horace Mann Insurance Co.*, 11-84 (La. 10/25/11), 74 So.3d 1159, 1170-71 and *Williams v. Security Plan Fire Insurance Co.*, 222 So.3d at 203-04.

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[4] *Calogero v. Safeway Insurance Co. of Louisiana*, 99-1625 (La. 1/19/00), 753 So.2d 170, 174; *Williams v. Security Plan Fire Insurance Co.*, 16-714 (La. App. 5 Cir. 5/31/17), 222 So.3d 200, 204.

By the time Bridges' motion was heard in September 2024, he had received the full settlement amount, and the hearing was limited to his claim for penalties and attorney fees. He did not assert a claim for any damages sustained as a result of the late payment of the settlement funds.

In his memoranda in support of the penalty claim, Bridges argued that the Defendants did not pay the settlement funds timely and that § 1892 should apply because it provided a greater penalty than did § 1973. He maintained that § 1892(B)(1)(a) called for a mandatory penalty of half of the total settlement amount, or $225,000, if the failure to pay timely was found to be arbitrary, capricious, or without probable cause. He asserted that the payment here was made more than 80 days after the conditions of the Settlement Agreement were satisfied, well beyond the 30-day limit, and argued that the Defendants "have no valid excuse for their excessive delay."

Bridges attached to his supplemental supporting memorandum copies of the Settlement Agreement, the Receipt and Release he signed, the CMS final payment letter, and the email correspondence with defense counsel in late April concerning those documents. He did not attach copies of any other documents to his motion or supporting memoranda.

In their memorandum in opposition to the motion, the Defendants did not dispute Bridges' allegation that the settlement funds were paid more than 30 days after the conditions of the Settlement Agreement were met. Defendants asserted that two checks were issued in July 2024 to fund the settlement, one by Chubb and the other by Sedgwick Claims Management, LLC ("Sedgwick"), the Third-Party Administrator for SLFPAE. Defendants did not attach copies of the checks to their memorandum.

Defendants argued that the imposition of a penalty under § 1892 was discretionary rather than mandatory. They maintained that they should not be

penalized for the delay because it resulted from a combination of an inadvertent internal error and miscommunication about how the settlement would be funded and the temporary absence of Chubb's claims adjuster, who was out on maternity leave, rather than bad faith or intentional neglect. Defendants asserted that Chubb did not know about the settlement with Bridges until after the adjuster returned to work in early July and emphasized that the settlement checks were issued a short time later. They argued that any penalty imposed should be in an amount far less than the $225,000 claimed by Bridges because the delay did not cause him any appreciable damage.

Defendants did not attach copies of any documents supporting the factual assertions made in their opposition memorandum.

Bridges filed a reply memorandum in which he stated, among other things, that Plaintiff's counsel had "sent nine post-settlement emails trying to determine why payment had not been timely issued" and had received no explanation for the delay from the Defendants until they filed their opposition memorandum.

Bridges did not attach copies of any of those emails to the memorandum. He pointed out that the Defendants had not provided any affidavits to support the facts asserted in their opposition memorandum and argued that, even if those unverified allegations were true, Defendants' failure to pay the settlement amount within 30 days was inexcusable.

<u>The Penalty Hearing</u>

At the hearing on the penalty motion, Bridges introduced in evidence copies of the Settlement Agreement, the Receipt and Release he signed, and the email correspondence concerning fulfillment of the conditions for funding the settlement, the same documents that were attached to his supplemental supporting memorandum. He did not introduce any other documents in evidence or call any witnesses.

Defendants did not introduce any evidence at the hearing.

The attorneys on both sides repeated the factual assertions made in their supporting and opposing memoranda about who did what when with respect to payment of the settlement funds and inquiries about the status of the payment between late April 2024, when the settlement payment became due, and mid-July 2024, when the second settlement check was allegedly issued. However, there is no indication in the record before us that the parties stipulated to any facts or agreed that the factual assertions contained in the memoranda should be accepted as evidence.

Both sides presented arguments to the trial court concerning various aspects of the two penalty statutes, including whether the penalties were mandatory or discretionary, whether Bridges was required to prove that he sustained any damages as a result of the delay, whether the delay in payment was arbitrary, capricious, or without probable cause, and how the penalty amount, if any, should be calculated. Neither side formally objected to having the trial court consider "facts" offered by the other side that were not introduced in evidence.

Trial Court Ruling

In written Reasons for Judgment, the trial court found that La. R.S. 22:1892 rather than R.S. 22:1973 should be applied to the penalty claim because § 1892 provided the greater penalty. The court interpreted the reference to "fifty percent of the amount found to be due from the insurer to the insured" in § 1892(B)(1)(a) to mean fifty percent of the total settlement amount, rather than fifty percent of the portion of the settlement amount attributable to Bridges' property damage and reasonable medical expense claims, the two types of claims that an insurer must pay to a third party claimant within 30 days of a written settlement, pursuant to § 1892(A)(2).

The trial court emphasized that the settlement amount was not in dispute, yet it was not paid for more than 80 days from when it became due, well beyond the 30-day limit. The court stated that Plaintiff bore the burden of proving that the failure to pay the settlement timely was arbitrary, capricious, or without probable cause and cited case law defining those terms to mean a willful refusal to pay that is not based on a good faith defense or a failure to pay that is unjustified, without reasonable cause or excuse.[5]

The trial court found that Plaintiff had met that burden for several reasons, all of which are clearly based on "facts" presented solely in the supporting and opposing memoranda or in argument of counsel. Based on those "facts," which were not presented in the form of competent evidence, the court concluded that the delay "could easily have been avoided, therefore it is not justified or reasonable."

The trial court issued a judgment against Chubb for penalties of $225,000, or half of the total settlement amount, and $1,500 in attorney fees, based on its interpretation of how the amount of the penalty should be calculated under § 1892(B)(1)(a). This appeal followed.

After the appeal was lodged, the Defendants filed a Motion to Remand the case to the trial court for consideration of new evidence that they claimed was likely to affect the outcome of the penalty hearing. By Order issued on May 12, 2025, this Court denied the Motion to Remand because Defendants did not meet their burden of showing that the new evidence was unobtainable with due diligence for the original hearing.

ASSIGNMENTS OF ERROR

In five assignments of error, Defendants contend the trial court judgment should be reversed for these reasons:

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[5] *Starr v. Brou*, 08-612 (La. App. 5 Cir. 1/27/09), 8 So.3d 674, 681; *Bourg v. Safeway Insurance Co. of Louisiana*, 19-270 (La. App. 1 Cir. 3/5/20, 300 So.3d 881, 891.

- The portion of the settlement funded by Chubb was not subject to a penalty because Bridges did not prove that Chubb issued a policy of insurance providing coverage for his damage claims, and without such proof, Bridges cannot be considered a "bona fide third party claimant" within the meaning of La. R.S. 22:1892(A)(2) (Assignments 1 and 2);

- The portion of the settlement funded by SLFPAE was not subject to a penalty as a matter of law because that entity is not an "insurer" within the meaning of the penalty statutes (Assignment 5);

- The trial court erred in awarding penalties under § 1892(B)(1)(a) when Plaintiff submitted no evidence to meet his burden of proving that the failure to pay the settlement timely was arbitrary, capricious, or without probable cause (Assignment 3); and

- If a penalty is owed under § 1892, the trial court erred in calculating the amount of the penalty as fifty percent of the total settlement amount because the duty owed by an insurer to a third party claimant under § 1892(A)(2) is limited to a duty to timely pay settlement amounts for the claimant's property damage and reasonable medical expense claims. (Assignment 4).

The Defendants did not raise the issues presented in Assignments 1, 2 and 5 in the trial court. We do not consider contentions raised for the first time in this Court which were not pleaded in or addressed by the district court. *Johnson v. State*, 02-2382 (La. 5/20/03), 851 So.2d 918, 921; *Brown v. Almanza*, 12-165 (La. App. 5 Cir. 10/16/12), 102 So.3d 981, 983.

Based on the limited evidence presented at the penalty hearing, and in light of the lack of clarity in the law as to how the amount of a penalty for a violation of § 1892(A)(2) should be calculated, we find merit in the issues presented in Assignments of Error 3 and 4.

It appears that evidence both in favor of and in opposition to the Motion to Enforce Settlement exists and was simply not introduced into the record properly. The parties and the trial court proceeded as if it had been admitted. Under these circumstances, we exercise our discretion to vacate the judgment and remand the matter to the trial court to permit the taking of additional evidence to reach a just decision and prevent a miscarriage of justice. La. C.C.P. art. 2164; *Alex v. Rayne Concrete* Service, 05-1457 (La. 1/26/07), 951 So.2d 138, 155; *Succession of*

Grieshaber, 22-480 (La. App. 5 Cir. 5/24/23), 366 So.3d 780, 784; *Duplessis v. Waste Connection of Louisiana, Inc.*, 23-589 (La. App. 5 Cir. 1/22/24), 2024 WL 657638, at *1 (unpublished writ disposition).

ANALYSIS

A. Burden of Proof on Penalty Claim

In its Reasons for Judgment, the trial court correctly stated that Bridges, as the party seeking to recover a penalty under La. R.S. 22:1892(B)(1)(a), bore the burden of proving that the Defendants failed to timely pay settlement funds owed to Bridges under § 1892(A)(2) and that the delay was arbitrary, capricious, or without probable cause. *See and compare Bell v. Steckler*, 19-170 (La. App. 5 Cir. 12/4/19), 285 So.3d 561, 570, *writ denied*, 20-28 (La. 2/26/20), 347 So.3d 877 (involving a different subsection of § 1892(A) but the same penalty provisions in § 1892(B)(1)(a)), and *Grant-Walker v. General Insurance Company of America*, 18-94 (La. App. 1 Cir. 7/3/19), 2019 WL 2880334, at *4 (unpublished opinion) (involving a claim by a third party claimant under § 1892(A)(2)).

A third party claimant seeking penalties under § 1973(C) for breach of an insurer's duty to timely pay a settlement under § 1973(B)(2) must prove that the insurer "knowingly" failed to pay timely, but need not prove that the insurer's conduct was arbitrary, capricious, or without probable cause. *Sultana Corp. v. Jewelers Mutual Insurance Co.*, 03-360 (La. 12/3/03), 860 So.2d 1112, 1119; *Barnes v. West*, 14-1018 (La. App. 3 Cir. 2/4/15), 159 So.2d 1075, 1077.

Regardless of which statute applies, these provisions clearly require proof of facts that must be presented by competent evidence properly admitted into the record or by stipulation or agreement of the parties filed or dictated into the record, as discussed below.

In a 2010 decision involving a penalty claim by a third party claimant against an insurer for failure to timely pay a settlement under the predecessor

statutes to La. R.S. 22:1892 and 22:1973, the First Circuit Court of Appeal stated that once the plaintiff proved the settlement funds were paid more than 30 days after the written settlement agreement was signed, "the burden shifted to [the insurer] to prove that its actions were not arbitrary, capricious, or without probable cause." *Bennett v. Laperouse and Son, Ltd.*, 09-1099 (La. App. 1 Cir. 2/12/10), 35 So.3d 364, 367. No authority was cited for that statement, which is not supported by the statutory language and appears to be an aberration in the case law. We respectfully decline to adopt that interpretation of the law regarding the burden of proof.

In his appellate brief, Bridges contends that the Louisiana Supreme Court has recognized that "any insurer" who fails to pay "an undisputed amount" has acted in a manner that is, "by definition," arbitrary, capricious, or without probable cause," citing *Louisiana Bag Co., Inc. v. Audubon Indemnity Co.*, 08-453 (La. 12/2/08), 999 So.2d 1104, 1120. We find that case to be distinguishable from the present case and decline to extend its rationale to this case.

The *Louisiana Bag* case involved a penalty claim brought by an insured against her insurer for breach of the insurer's duty to timely pay claims for benefits owed under an insurance policy, as set forth in § 1892(A)(1). It did not involve a penalty claim by a third party claimant against another party's insurer for breach of the duty to timely pay settlement funds, as set forth in § 1892(A)(2), the duty that is at issue here. The nature and extent of an insurer's duty to its insured under § 1892(A)(1) has been extensively litigated and is not analogous to an insurer's duty to a third party claimant under § 1892(A)(2), in our view.

The Supreme Court has recognized that an insurer's contractual relationship with its insured includes an implied covenant of good faith and fair dealing, while an insurer's relationship with a third party claimant is neither fiduciary nor contractual, but adversarial. *Theriot v. Midland Risk Insurance Co.*, 95-2895 (La.

5/20/97), 694 So.2d 184, 193. In *Theriot*, the court recognized that the legislature took these fundamental differences into account when it defined the duties owed by an insurer to an insured, on the one hand, and a third party claimant, on the other, in the penalty statutes in question. 694 So.2d at 187-90, 192-93.

Bridges has not cited, and we have not found, a case in which the Supreme Court has applied the language concerning the penalty claimant's burden of proof in the *Louisiana Bag* case to a claim brought by a third party claimant under § 1892(A)(2), which clearly requires proof that the insurer acted arbitrarily, capriciously, or without probable cause, in addition to proof of untimely payment of settlement funds, as a prerequisite to recovery of a penalty. Accordingly, we apply the statute as written. La. C.C. art. 9; La. R.S. 1:4.

B. Trial Court Findings on Burden and Elements of Proof

The only evidence that was submitted at the penalty hearing was Bridges' evidence proving that the conditions of the Settlement Agreement were met. Bridges did not introduce any evidence proving that the settlement payment was untimely or that the delay was arbitrary, capricious, or without probable cause. Neither side introduced copies of the settlement checks or any other evidence establishing when the settlement was paid, and Bridges did not introduce copies of any of the nine emails his counsel indicated were sent to inquire about the status of the settlement payment.

Defendants, likewise, introduced no evidence to support their assertions about the reasons for the delay and their claims of justification. While they did not bear the initial burden of proof at the hearing, they, too, presented the facts they deemed relevant to their defense solely through unsubstantiated statements in their opposition memorandum and in argument of counsel at the hearing.

No stipulations of fact or other agreed-upon statements of fact for the trial court to consider were entered into the record.

C. What Constitutes Evidence

The law is clear that neither the trial court nor a reviewing court may consider factual assertions relating to the merits of a pending claim when those assertions are not properly and officially offered and introduced in evidence or formally placed in the record by stipulation or agreement of the parties. *See Holley v. Holley*, 17-325 (La. App. 5 Cir. 11/20/17), 232 So.3d 717, 727-28; *Cozzy Spot, LLC v. City of New Orleans*, 16-529 (La. App. 4 Cir. 1/11/17), 209 So.3d 224, 227; *Succession of Morgan*, 15-335 (La. App. 1 Cir. 2/24/16), 2016 WL 770192, at *3-4 (unpublished opinion).

These cases make it clear that facts referred to solely in memoranda filed in the trial court or in argument of counsel, without being formally introduced in evidence or submitted to the court by stipulation or consent of the parties on the record, do not constitute evidence.

In *Holley*, this Court found that the trial judge erred as a matter of law in basing an interim child custody ruling on documents that were attached to memoranda filed in the trial court but were not introduced in evidence or submitted by stipulation or consent of the parties. 232 So.3d at 727-28. In *Cozzy Spot*, the Fourth Circuit found that the trial court erred in rendering a judgment affirming a decision to revoke the plaintiff's alcohol permit based on purported stipulations that were not made part of the record. 209 So3d at 227. In *Succession of Morgan*, the First Circuit found that the trial court erred in rendering a judgment on a motion concerning the distribution of succession assets based in part on purported stipulations, agreements or representations of the parties that were not made part of the record. 2016 WL 770192, at *4.

In each of those cases, the appellate court vacated the judgment and remanded the matter to the trial court for further proceedings.

D. Lack of Evidence in this Record

Here, the trial court found that Bridges met his burden of proving that the settlement payment was untimely because "there was no dispute that there was no payment made within thirty days" after it became due. While it is true that the Defendants did not dispute that assertion in their opposition memorandum or at the hearing, there is no evidence in the record to prove when the settlement was paid or what efforts were made on Bridges' behalf to obtain updates about the status of the payment after the conditions of the Settlement Agreement were satisfied. Those efforts apparently formed the basis for his assertion that the delay in paying the settlement was arbitrary, capricious, or without probable cause, an essential element of his claim for a penalty under § 1892.

The record before us does not support the trial court's conclusions that Bridges met his burden of proving facts establishing his entitlement to a penalty under § 1892. Without such evidence, the record provides an inadequate factual basis for appellate review of the trial court's findings that the settlement was paid late and the failure to pay timely was arbitrary, capricious, or without probable cause, both of which are prerequisites to recovery of a penalty under § 1892.

La. C.C.P. art. 2164 directs that an appellate court "shall render any judgment which is just, legal, and proper upon the record on appeal." Appellate courts are given the power to remand an action for proper consideration when the record is so incomplete that the court is unable to pronounce definitely on the issues presented or where the parties have failed, for whatever reason, to produce available evidence material to a proper decision. *See Bodin v. Bodin*, 7956 (La. App. 3 Cir. 12/17/80), 392 So.2d 759, 762; *Southern Trace Property Owners Assn. v. Williams*, 50,992 (La. App. 2 Cir. 11/23/16), 210 So.3d 835, 844-45, and cases cited therein. These cases are consistent with the decisions of the Louisiana Supreme Court and this Court previously cited concerning an appellate court's discretionary power to remand a case to the trial court for the taking of additional

evidence under certain circumstances. *Alex v. Rayne Concrete Service*, 951 So.2d at 155; *Succession of Grieshaber*, 366 So.3d at 784; *Duplessis v. Waste Connection of Louisiana*, 2024 WL 657638 at *1.

We conclude that the circumstances of this case warrant the exercise of that discretion here.

E. Calculation of Penalty Amount under § 1892

An additional issue raised by the Defendants on appeal is whether the trial court erred in calculating the amount of the penalty owed under § 1892(B)(1)(a) as fifty percent of the total settlement amount. Defendants assert that because the duty owed by an insurer to a third party claimant under § 1892(A)(2) is limited to a duty to timely pay settlement amounts for the claimant's property damage and reasonable medical expense claims, any penalty awarded for breach of that duty is limited to half of those amounts. After considering the statutory language, as interpreted in the case law, we agree.

La. R.S. 22:1892(A)(2), as it read when Bridges' cause of action for penalties arose in May 2024, provided:

> All insurers issuing any type of contract . . . shall pay the amount of any third party property damage claim and of any reasonable medical expenses claim due any bona fide third party claimant within thirty days after written agreement of settlement of the claim from any third party claimant.

Subsections (A)(1), (A)(3) and (A)(4) establish other duties owed by an insurer to its insured, to a third party claimant, or to both.

The penalties for an insurer's breach of the duties set forth in Subsection (A) are set forth in Subsection (B)(1)(a).

The first part of Subsection (B)(1)(a) refers to an insurer's failure to comply with the duties owed to an insured or a third party claimant under provisions of Subsection (A) other than Subsection (A)(2) and are not relevant here.

The relevant portion of Subsection (B)(1)(a) in this case is the portion establishing a penalty for an insurer's breach of the duty to pay the amount of any third party property damage claim and of any reasonable medical expenses claim due any bona fide third party claimant within thirty days after written agreement of settlement of the claim, as set forth in Subsection (A)(2). That penalty provision, as it read in May 2024, is as follows:

> [F]ailure to make **such payment** within thirty days after written agreement or settlement as provided in Paragraph (A)(2) of this Section when such failure is found to be arbitrary, capricious, or without probable cause, shall subject to the insurer to a penalty, in addition to the amount of the loss, of **fifty percent damages on the amount found to be due from the insurer to the insured**, or one thousand dollars, whichever is greater, payable to the insured, or in the event a partial payment or tender has been made, fifty percent of the difference between the amount paid or tendered and the amount found to be due as well as reasonable attorney fees and costs.

A divided five-judge panel of the First Circuit Court of Appeal considered the meaning of Subsection (B)(1)(a) in the context of a penalty claim arising under Subsection (A)(2) in *Grant-Walker v. General Insurance Company of America, supra*. The trial court found that the plaintiff, a third party claimant seeking general and special damages for personal injuries resulting from an automobile accident, was entitled to a penalty under § 1892 for an insurer's untimely payment of a $30,000 settlement and assessed a penalty of $15,000, or half of the total settlement amount. The penalty award was upheld on appeal, with two judges dissenting. 2019 WL 2880334 at *4 (majority opinion), *5 (dissenting opinions).

The plaintiff's property damage and medical expense claims were included in the settlement, along with other claims. The settlement agreement did not identify which of the plaintiff's claims were included in the settlement. *Id.* at *3. After considering the statutory language, the

majority concluded that a penalty was owed for the insurer's failure to pay the plaintiff "the property damage and medical expense settlement" within 30 days after the settlement agreement was reached. *Id.* at *4. Elsewhere in the majority opinion, however, the court described the insurer's duty under Subsection (A)(2) as a duty to "pay the settlement amount" to the third party claimant within 30 days. *Id.* The court found no basis to disturb the trial court's finding that the insurer's failure to timely pay the settlement was arbitrary, capricious, or without probable cause or its calculation of the penalty amount as half of the total settlement amount. *Id.*

Both dissenting judges deemed it significant that the record did not reflect how much of the total settlement amount was attributable to the plaintiff's property damage and medical expense claims and regarded proof of that as essential element of the plaintiff's penalty claim. *Id.* at *5. (dissenting opinions of Judges Crain and McDonald). Judge McDonald emphasized that those are the only two types of claims an insurer is obligated to pay to a third party claimant within 30 days of a written settlement agreement under § 1892(A)(2) and concluded that any penalty imposed on an insurer for a breach of that duty should be calculated as half of those amounts, rather than half of the total settlement amount. He opined that the majority decision was contrary to the clear wording of the statute. *Id.*

In this case, Bridges has relied on *Grant-Walker*, here and below, as authority for a penalty award in the amount of half of the total settlement amount. The Defendants did not address that case or cite any other cases on that issue in the trial court. On appeal, Defendants cite a Third Circuit case in support of the contrary view that the penalty must be limited to fifty percent of the settlement amount attributable to the third party claimant's

property damage and medical expense claims: *Morrison v. Alexandria Commons, LLC*, 09-652 (La. App. 3 Cir. 12/9/09), 25 So.3d 989, *writ not considered*, 10-82 (La. 3/26/10), 29 So.3d 1261.[6]

The trial court did not cite either of those cases in its Reasons for Judgment, but appears to have followed the reasoning of the majority in *Grant-Walker* as to how the amount of a penalty for a violation of § 1892(A)(2) should be calculated.

We find the reasoning in Judge McDonald's dissenting opinion in *Grant-Walker* to be more persuasive than the reasoning in the majority opinion and decline to adopt the majority's interpretation of the statute.

F. Scope of Insurer's Duty under § 1892(A)(2)

The insurer's duty to a third party claimant under § 1892(A)(2) is clearly limited to a duty to pay "the amount of any third party property damage claim and of any reasonable medical expenses claim" due to any bona fide third party claimant within thirty days after written agreement of settlement of the claim.

The conduct for which an insurer may be penalized under § 1892(B)(1)(a) is the insurer's "failure to make such payment," *i.e.*, payment of the amount of any third party property damage claim and of any reasonable medical expenses claim, "within thirty days after written agreement or settlement as provided in Paragraph (A)(2) of this Section when such failure is found to be arbitrary, capricious, or without probable cause." The insurer's failure to comply with the duty set forth in Subsection (A)(2) "shall subject the insurer to a penalty, in addition to the amount of the

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[6] In *Morrison*, the appellate court affirmed several penalty awards against an insurer in favor of a third party claimant and her children in a personal injury action, including an award for half of the roughly $55,000 portion of a $190,000 settlement that was for medical expenses. 25 So.3d at 995. The insurer contested that penalty award on several grounds on appeal, but did not challenge the manner in which the penalty amount was calculated.

loss, of fifty percent damages on the amount found to be due from the insurer to the insured," or $1,000, whichever is greater, "payable to the insured."

Under the general rules of statutory construction, laws that are clear and unambiguous must be construed as written, and the letter of the law shall not be disregarded under the pretext of pursuing its spirit. La. C.C. art. 9; La. R.S. 1:4. When the language of a law is susceptible of different meanings, it must be interpreted as having the meaning that best confirms to the purpose of the law. La. C.C. art. 10. Laws on the same subject matter must be interpreted in reference to each other. La. C.C. art. 13.

Except for the phrase "the amount found to be due from the insurer to the insured" in Subsection (B)(1)(a), the statutory provisions concerning how a penalty is to be calculated are clear and unambiguous and must be construed as written. The only ambiguity arises from the phrase "the amount found to be due from the insurer to the insured," as the duty set forth in Subsection (A)(2) is not owed to an insured, but only to a third party claimant.

In interpreting the meaning of this provision, we are mindful that statutes subjecting insurers to penalties are considered penal in nature and should be strictly construed. *Theriot v. Midland Risk Insurance Co.*, 694 So.2d at 186. Additionally, due to the fundamental differences between an insurer's contractual relationship with its insured and with third party claimants, as set forth above, statutes that create a limited cause of action in favor of a third party claimant must be strictly construed in favor of a limited expansion of third party rights rather than a drastic expansion of such rights. *Theriot*, 694 So.2d at 193; *Sargent v Landry*, 13-1002 (La. App. 1 Cir. 2/25/14), 2014 WL 766847, at *3 (unpublished opinion).

In *Theriot*, the Louisiana Supreme Court considered the predecessor statutes to La. R.S. 22:1892 and 1973 in the context of a third party claimant's assertions that the liability insurers for the other drivers involved in an automobile accident owed the same duties to adjust her claim fairly and promptly and to make reasonable efforts to settle her claim as they would owe to their insureds.

In discussing the legislative history of both statutes, the court observed that the legislature had created a statutory cause of action in favor of third party claimants in La. R.S. 22:658 (now 1892) "in very limited circumstances" by providing that "in the event of a written agreement to settle a third-party *property damage or medical expense claim*, the amount of settlement had to be paid within thirty days, in default of which the third-party claimant could seek penalties and attorney fees." 694 So.2d at 189. The court contrasted the legislature's "circumscribing" of third party actions available under La. R.S. 22:658 "to situations where a medical expense or property damage settlement had already been reduced to writing," with the broader duties owed by an insurer to its insured to make reasonable efforts to settle all claims. *Id.* at 188-89.

The legislature has not modified the scope of an insurer's duty to a third party claimant under § 1892(A)(2) (formerly § 658) since the *Theriot* case was decided in 1997. Because a third party claimant clearly has a right to seek penalties from an insurer under Subsection (B)(1)(a) for a breach of the insurer's duty to the claimant under Subsection (A)(2), we conclude that the phrase "the amount found to be due by the insurer to the insured" in Subsection (B)(1)(a) should be construed to mean "the amount found to be due by the insurer to the insured or to the third party claimant." Similarly, the statutory provision that the penalty is "payable to the insured" should be construed to mean "payable to the insured or to the third party claimant."

When a third party claimant seeks penalties for an insurer's breach of the duty in Subsection (A)(2), the amount due by the insurer to the claimant under that subsection is not the full settlement amount, but the amount of the third party claimant's property damage and reasonable medical expense claims.

The other penalty statute invoked by Bridges, La. R.S. 22:1973, permits a third party claimant to seek a penalty for an insurer's knowing failure to pay "a settlement" within thirty days after an agreement is reduced to writing. Although the scope of the insurer's duty is broader under this statute than it is under § 1892, the penalty provisions of the two statutes are different. The penalty for a violation of § 1973 may not exceed "two times the damages sustained" as a result of the insurer's breach of the duty imposed in the statute, or $5,000, whichever is greater. § 1973(A), (B)(2), (C), as interpreted in *Durio v. Horace Mann Insurance Co.*, 74 So.3d at 1170-71 and *Williams v. Security Plan Fire Insurance Co.*, 222 So.3d at 204.

When the settlement between an insurer and a third party claimant includes property damage and medical expense claims as well as other types of damage claims, we know of no authority that would allow the third party claimant to recover a penalty of half of the total settlement amount.

Although an insurer is contractually obligated to pay the full amount of a settlement owed to a third party claimant within the time specified in the settlement agreement, we conclude that the only conduct for which an insurer may be cast with statutory penalties under § 1892(A)(2) and (B)(1)(a) is the failure to timely pay settlement amounts for the third party claimant's property damage and reasonable medical expense claims, if such failure is found to be arbitrary, capricious, or without probable cause. If the settlement includes either or both of those types of claims, and no other claims, and the other elements for recovery of a penalty under § 1892 are satisfied, the penalty may be calculated as half of the total

settlement amount. However, when the settlement includes property damage and medical expense claims along with other types of damage claims, as it did here, the amount of a penalty awarded under § 1892 may not exceed fifty percent of the amount of the settlement attributable to the property damage and reasonable medical expense claims, or $1,000, whichever is greater.

The trial court's broader interpretation of the statute is contrary to the statutory language as a whole and the Louisiana Supreme Court's directives that statutes subjecting insurers to penalties in favor of a third party claimant must be strictly construed to limit, rather than to expand, third party rights. *Theriot, supra*.

CONCLUSION

For the reasons expressed, we vacate the trial court judgment and remand the matter to the trial court for a hearing to allow the parties to properly offer, file, and introduce evidence concerning the facts pertaining to the penalty claims asserted by Bridges under §§ 1892 and 1973. We further order the trial court to render its decision based on the evidence properly before it for consideration and the interpretation of the penalty provisions in § 1892 set forth herein.

VACATED AND REMANDED.

JAMES BRIDGES, SR.	NO. 24-CA-593
VERSUS	FIFTH CIRCUIT
CHUBB INDEMNITY INSURANCE COMPANY, ACE AMERICAN INSURANCE COMPANY, SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST, EAST JEFFERSON LEVEE DISTRICT, DEIDRICK GREEN, AND GOVERNMENT EMPLOYEES INSURANCE (IN ITS CAPACITY AS UNINSURED/UNDERINSURED MOTORIST CARRIER)	COURT OF APPEAL STATE OF LOUISIANA

MARCEL, J., DISSENTS WITH REASONS

Respectfully, I dissent from the majority opinion.

Contrary to the numerous assignments of error raised by appellants in their brief, the only question properly before us on appeal is that contained in the third assignment of error: whether the trial court erred in finding that defendants' failure to pay within 30 days was arbitrary, capricious, or without probable cause in light of the record on appeal. None of appellant's other arguments concerning calculation of penalties under La. R.S. 22:1892 were raised at the trial court in either their pre-trial memorandum or at the trial on the motion to enforce the settlement agreement. Appellants could have, but did not, raise these arguments in a motion for new trial. As the majority correctly points out, we will generally not consider issues raised for the first time in this court, which are not pleaded in the court below. *Geiger v. State ex rel. Dep't of Health & Hosp.*, 01-2206 (La. 4/12/02), 815 So.2d 80, 86. I would therefore pretermit all discussion of appellant's other assignments of error, including assignment of error number four addressed by the majority.[7]

[7] Trial counsel below made no arguments about the limitations of a party to timely pay settlement amounts for property damage and reasonable medical expense claims. Even had such argument been made, there does not appear to be a rational basis for making such an itemization of the settlement amount based on the record before us thereby making any

Turning now to that third assignment of error, appellants contend the trial court erred in finding defendants failure to pay the settlement amount within 30 days was arbitrary and capricious. The settlement agreement in this case was an *in globo* compromise of all claims for personal injury damages against defendants. Consideration due plaintiffs for releasing those claims did not assign an amount of money for each element of damage. The statute applicable to the issue presented is La. R.S. 22:1892(B)(1)(a), which states in pertinent part:

> [F]ailure to make such payment within thirty days after written agreement or settlement … when such failure is found to be arbitrary, capricious, or without probable cause, shall subject the insurer to a penalty, in addition to the amount of the loss, of fifty percent damages on the amount found to be due from the insurer to the insured, or one thousand dollars, whichever is greater … as well as reasonable attorney fees and costs.

The phrase "arbitrary, capricious, or without probable cause" is synonymous with "vexatious." *Zydeco's II, LLC v. Certain Underwriters at Lloyd's, London*, 19-562, p. 45 (La. App. 5 Cir. 5/28/21), 356 So.3d 345, 379, *writ denied*, 2021-01745 (La. 2/8/22), 332 So.3d 640, *and writ denied*, 2021-01755 (La. 2/8/22), 332 So.3d 665. A vexatious refusal to pay means unjustified, without reasonable or probable cause or excuse. *Id*.

Whether an insurer has acted in a manner "arbitrary, capricious, or without probable cause" is a factual issue, and the trial court's factual finding should not be disturbed on appeal absent manifest error. *Id*. The manifest error standard of review precludes the setting aside of a trial court's finding of fact unless that finding is clearly wrong in light of the record reviewed in its entirety. *Mann v. Louisiana-1 Gaming*, 21-83, p. 3 (La. App. 5 Cir. 12/15/21), 334 So.3d 894, 898.

As correctly observed by the trial court and the majority, under this section of La. R.S. 22:1892(B)(1), a plaintiff must prove (1) that payment was not made

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discussion of such hypothetical and advisory. Issuing such an advisory opinion on the interpretation of a much amended and much litigated statute is unwarranted.

within thirty days of the written settlement, and (2) that the failure to pay was "arbitrary, capricious, or without probably cause". It is uncontested that plaintiff satisfied this first element, and therefore the only question is whether the trial court manifestly erred in finding this second element satisfied.

The majority states that there is no indication in the record that the parties stipulated to any facts or agreed that the factual assertions contained in the memoranda should be accepted as evidence. A stipulation is an agreement between the parties that establishes the existence or non-existence of facts relevant to the litigation between them. *Nizzo v. Wallace*, 11-467, p. 6 (La. App. 5 Cir. 12/28/11), 83 So.3d 161, 165, *writ denied*, 2012-0042 (La. 3/9/12), 84 So.3d 556. I agree that there is no evidence of a stipulation between the parties here.

However, as explained further below, I believe that the statements made by counsel both in memoranda and before the court at trial constitute judicial confessions under La. C.C. art. 1853.

La. C.C. art. 1853 states in part:

> A judicial confession is a declaration made by a party in a judicial proceeding. That confession constitutes full proof against the party who made it.

Revision comment (b) to this article further clarifies, "[u]nder this article, a declaration by a party's attorney or mandatary has the same effect as one made by the party himself."

A judicial confession is a party's explicit admission of an adverse factual element and has the effect of waiving evidence as to the subject of the admission. *Khoobehi Properties, L.L.C. v. Baronne Dev. No. 2, L.L.C.*, 19-278, p. 9 (La. App. 5 Cir. 12/18/19), 288 So.3d 224, 231. A judicial confession must be explicit and not merely implied. *La Louisiane Bakery Co. Ltd. v. Lafayette Ins. Co.*, 09-825, p. 14 (La. App. 5 Cir. 2/8/11), 61 So.3d 17, *writ denied*, 2011-0493 (La. 4/25/11), 62 So.3d 95.

Admissions by a party in a pleading constitute judicial confessions and are full proof of the admissions against the party making them. *1026 Conti Holding, LLC v. 1025 Bienville, LLC*, 2022-01288, p. 14 (La. 3/17/23), 359 So.3d 930, 941, *reh'g denied*, 2022-01288 (La. 5/4/23), 362 So.3d 424; *C.T. Traina, Inc. v. Sunshine Plaza, Inc.*, 2003-1003, p. 5 (La. 12/3/03), 861 So.2d 156, 159; *Sperandeo v. Osabas*, 09-627, p. 4 (La. App. 5 Cir. 2/9/10), 33 So.3d 269, 271; *Goines v. Goines*, 08-42, p. 5 (La. App. 5 Cir. 6/19/08), 989 So.2d 794, 797.

Counsel's responses to questions posed by the court may also be considered judicial confessions of fact that relieve a party of the necessity of introducing evidence. *Cichirillo v. Avondale Indus., Inc.*, 2004-2894, p. 8 (La. 11/29/05), 917 So.2d 424, 430; *Lege v. Union Carbide Corp.*, 2020-0252, p. 17 (La. App. 4 Cir. 4/1/21), 365 So.3d 617, 632, *as clarified on reh'g*, 2020-0252 (La. App. 4 Cir. 5/12/21), 366 So.3d 75, *writ denied*, 2021-00792 (La. 10/1/21), 324 So.3d 1054, *and writ denied*, 2021-00775 (La. 10/1/21), 324 So.3d 1059; *Fed. Work Ready, Inc. v. Wright*, 2019-0752, p. 16 (La. App. 4 Cir. 4/22/20), 299 So.3d 140, 150. With this law in mind, I examine the explicit factual assertions made by counsel in their motion and at trial.

In their memorandum in opposition to plaintiff's motion, defendants included a "factual background" in which they represented that the two parties responsible for issuing settlement checks, Chubb and Sedgwick, experienced miscommunication, internal error, and a temporary absence of key personnel. Specifically, defendants stated:

> At the time the settlement was finalized, the adjuster responsible for handling the settlement on behalf of Chubb … was on maternity leave. As a result, Chubb did not become aware of the settlement agreement until July 7, 2024, when [she] returned to work and resumed her duties. This delay in communication meant that Chubb was unable to process their portion of the settlement in a timely manner.
>
> Concurrently, within Sedgwick, an internal error and miscommunication arose regarding the exact amount and the correct

> procedure for processing their portion of the settlement. This confusion led to a delay in the issuance of Sedgwick's check. Once the error was identified, Sedgwick acted promptly to rectify the situation and issue the payment.
>
> …
>
> Immediately upon learning of the settlement, Chub [sic] and Sedgwick took prompt action to process the required payments.

Defendants went on to argue, based on these stated facts, that the delay in issuing the checks was not arbitrary, capricious, or without probable cause as required to be shown by La. R.S. 22:1892.[8]

During the hearing, counsel for defendants repeated factual claims made in their reply memorandum concerning the miscommunications and errors that led to the checks being delayed, including the assertion that the adjuster responsible for handling the claim was out on maternity leave, specifically in response to the judge's questions about the cause of the delay.

> THE COURT:
>
> What's the cause?
>
> [DEFENSE COUNSEL]:
>
> … And our argument here today, Judge, is that while we -- there was a settlement on April 23rd. The issue between Sedgwick and Chubb that was going on was that they were trying to determine what -- who would pay for what amount.
>
> And this was also complicated by the fact that the adjuster handling this particular matter was on maternity leave. And so as they tried to figure this out that's kind of what happened. And when the adjuster returned from maternity leave she subsequently took immediate action to ensure that the checks were issued and that the plaintiff received payment. …

These explicit admissions of fact go directly to the matter to be proved by the plaintiff: whether defendants acted arbitrarily, capriciously, or without cause in failing to pay the settlement within thirty days. Plaintiff and the court may rely on

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[8] They argued as well that the imposition of penalties under La. R.S. 22:1973, if awarded at all, should be limited by the circumstances of the case and applied solely to the Sedgwick portion of the settlement "considering that the delay was specifically due to issues within Sedgwick."

such admissions as proof against defendants who made them.[9] The record indicates that the court did so rely. In both her oral reasons at the conclusion of the hearing and in her written reasons for judgment, the trial judge stated that the fact that the original adjuster handling the matter being on maternity leave was not a sufficient cause for the defendants' failure to pay the settlement for over eighty-three days.[10] I agree.

The issue to be resolved on a manifest error standard of review is not whether the judge was right or wrong, but whether the judge's fact-finding conclusion was a reasonable one. *Mann*, 334 So.3d at 898. When there are two permissible views of the evidence, the findings of the trier of fact cannot be manifestly erroneous or wrong. *Id*. On review of the record and applying the manifest error standard, I believe a rational trier of fact could reasonably conclude, based on explicit judicial confessions of fact repeatedly made by defense counsel in both pleadings and to the court at the hearing, that defendants acted without probable cause in failing to pay the settlement agreement within the thirty days as required under La. R.S. 22:1892. I find no error in the trial court's judgment and no merit in defendant's arguments on appeal. The judgment should be affirmed.

Finally, I also write to express concern over the potential impact of the majority's ruling on enforcement of settlement agreements. As discussed *supra*, our law provides that settlement agreements are to be performed within 30 days. This fixed period of time affords all parties certainty and finality to their dispute. A motion to enforce a settlement agreement is triable by summary proceeding,

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[9] Particularly under the facts of the circumstances presented in this case. Unlike the majority of cases involving the imposition of penalties under La. R.S. 22:1892 which concern an insurer's failure to pay a first party insurance claim (and provide rejection letters and explanations for such a decision), in this case concerning the funding of a settlement, the parties' attorneys are likely to have direct, first hand-knowledge of the facts and circumstances surrounding the failure to pay.

[10] The trial court also very reasonably pointed out the improbability of Chubb assertion that it was "unaware" of the settlement agreement until after its claims adjuster returned from maternity leave.

allowing for avoidance of delays inherent in ordinary proceedings, and facilitating an expeditious resolution. Where the material facts are established by stipulation or judicial confession, and not in controversy, imposing the burden on a party to present documentary or testimonial evidence demonstrating why a settlement is not performed with the legally mandated time will unnecessarily add time and costs to compelling performance of settlement agreements.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **JULY 2, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

24-CA-593

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE DANYELLE M. TAYLOR (DISTRICT JUDGE)
THEAR J. LEMOINE (APPELLANT)
GARY M. LANGLOIS, JR. (APPELLEE)
JONATHAN R. MARLOWE (APPELLEE)

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