

STATE OF LOUISIANA

COURT OF APPEAL, FIRST CIRCUIT

IN THE MATTER OF THE
SUCCESSION OF JOHN BURGIN
TESSIER

NO. 2026 CW 0980

CONSOLIDATED WITH

IN THE MATTER OF THE
SUCCESSION OF ROSE MARY
BEGNAUD TESSIER

OCTOBER 1, 2026

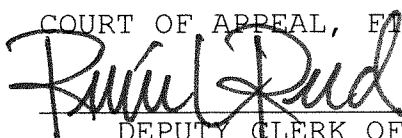
In Re: John R. Tessier and Jeanine Tessier Wheeler, applying
for supervisory writs, 19th Judicial District Court,
Parish of East Baton Rouge, No. 110024.

BEFORE: WOLFE, STROMBERG, AND BALFOUR, JJ.

WRIT GRANTED IN PART AND DENIED IN PART. The portions of the district court's May 14, 2026 judgment which denied the motion of relators, John Tessier and Jeanine Tessier Wheeler, to annul the order of probate and the amended judgment of possession signed on September 22, 2022 are reversed. Prior to the signing of those orders, on May 17, 2022, relators filed a Petition of Appointment of Administrator, which contained an opposition to the proposed probate of a testament of decedent, John Tessier. Although the pleading was not titled as such, this court generally has held that the title on pleading is not controlling, but rather it is the substance which controls. See Warner v. Warner, 2002-1380 (La. App. 1st Cir. 8/13/03), 859 So.2d 146, 149. An examination of the record pursuant to La. Code Civ. P. art. 3061 would have revealed the contested nature of this proceeding and the opposition to probate of the testament. The district court should not have acted on the orders of probate and possession ex parte after an opposition was filed. La. Code Civ. P. art. 2881. Based on the testimony presented at this hearing, it appears these matters were erroneously presented to the court as uncontested matters when they were not uncontested. If an objection is made to the ex parte probate of a testament, as provided in article 2881, the testament may be probated only at a contradictory trial of the matter. La. Code Civ. P. art. 2901. A final judgment shall be annulled if it is rendered 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. La. Code Civ. P. art. 2002(A)(2). See also Succession of Burley, 2023-688 (La. App. 3d Cir. 3/27/24), 386 So.3d 1090, 1091. The September 22, 2022 order of probate and amended judgment of possession are vacated. This court pretermits review of the district court's May 14, 2026 judgments as to the claims asserted pursuant to La. Code Civ. P. arts. 2004 and 2931 as moot in light of the action taken herein on the claims asserted pursuant to La. Code Civ. P. art. 2002.

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COURT OF APPEAL, FIRST CIRCUIT



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