

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2007 CA 0897

LARRY AND ROSIE ADAMS

VERSUS

RHODIA, INC. AND EXXON MOBIL CORPORATION

Judgment Rendered: December 21, 2007

On Appeal from the Nineteenth Judicial District Court
In and For the Parish of East Baton Rouge
State of Louisiana
Docket No. 483,752

Honorable Janice Clark, Judge Presiding

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BEFORE: GAIDRY, McDONALD, AND McCLENDON, JJ.

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McCLENDON, J.

Defendant, Exxon Mobil Corporation (Exxon), appeals the trial court's assessment to Exxon of the vast majority of the trial costs, 98%, even though the trial court found Exxon to be only 10% at fault for the accident and damages.¹ We reverse.

In a related appeal, **Adams v. Rhodia, Inc.**, 2006-1803 (La.App. 1 Cir. 9/26/07), ___ So.2d ___, this court found that plaintiffs had not met their burden to prove that Exxon was liable for the accident and injury in question. Based on that opinion, and after review of the record now before us, we can find no just basis for assessment of costs against a "wholly prevailing party," including a defendant found to have no fault. See **Emoakemeh v. Southern University**, 94-1194, p. 9 (La.App. 1 Cir. 4/7/95), 654 So.2d 474, 479; LSA-C.C.P. art. 1920 & 2164; see also **Westley v. Allstate Insurance Company**, 2005-100, pp. 15-16 (La.App. 5 Cir. 5/31/05), 905 So.2d 1127, 1137.

For these reasons, we reverse the trial court's judgment of March 27, 2007 by this memorandum opinion issued in compliance with URCA Rule 2-16.1.B. We assess the trial and appeal costs to plaintiffs, Larry and Rosie Adams.

REVERSED AND RENDERED.

¹ After a jury trial, Rhodia, Inc., with whom plaintiffs had settled before trial, was found to be 88% at fault, with 2% of the fault assessed to plaintiff, Mr. Larry Adams.