

**STATE OF LOUISIANA  
COURT OF APPEAL, THIRD CIRCUIT**

**07-54**

**MICHAEL NELSON**

**VERSUS**

**CORBERT DINGER, JR.**

**COOKS, J., concurs in the result.**

I agree with the majority's decision to affirm the judgment, finding the trial judge simply applied the law as written and committed no error. However, I take exception with the majority opinion's statement that "[t]he only way RPS, who clearly failed to timely answer garnishment interrogatories propounded to it, could avoid a judgment *pro confesso* is if it could prove at the hearing on the contradictory motion that it had no property of and was not indebted to the judgment debtor." Article 2413B's provision that if the garnishee proves the amount of indebtedness, the judgment shall be limited to the payment of that indebtedness, was not available to RPS, because this involved the garnishment of wages. Thus, there was no "way" for RPS to avoid the judgment after it failed to timely file its answer and the plaintiff filed the contradictory motion.