

The Supreme Court of the State of Louisiana

ROBERT TASSIN

No.2020-C-00652

VS.

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY AND RAYMOND
HEBERT**

IN RE: Robert Tassin - Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of East Baton Rouge, 19th Judicial District Court Number(s) 645,411, 1st Circuit Court of Appeal, Number(s) 2019 CA 1162;

October 14, 2020

Writ application granted. See per curiam.

BJJ

JLW

JDH

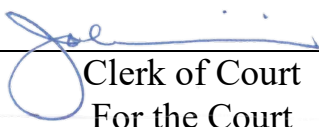
JTG

Crichton, J., concurs and assigns reasons.

Crain, J., dissents and assigns reasons.

Boddie, J., dissents for reasons assigned by Justice Crain.

Supreme Court of Louisiana
October 14, 2020


Clerk of Court
For the Court

10/14/20

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RAYMOND HEBERT**

**ON WRIT OF CERTIORARI TO THE 1ST CIRCUIT COURT OF
APPEAL, PARISH OF EAST BATON ROUGE**

PER CURIAM

Writ granted. Plaintiff, Robert Tassin, filed suit against State Farm Automobile Insurance Company and Raymond Hebert (“Defendants”) seeking personal injury damages resulting from a car accident allegedly caused by Hebert’s failure to yield at a traffic signal. Tassin amended his original petition to add the City of Baton Rouge/Parish of East Baton Rouge, alleging fault for failure to properly maintain the traffic signal. Nearly two months prior to trial, but after a joint pre-trial order (“PTO”) had been submitted by the parties, the City/Parish was dismissed from the lawsuit. On the eve of trial, Defendants attempted to add Brenda Dawson as a witness, although she was only listed as a witness in the PTO by the City/Parish and not by Defendants (Defendants allege that the language included in their PTO says they may call any witness listed by any other party). Tassin filed a motion to strike Dawson’s testimony, which was granted by the district court.

The case proceeded to a bench trial, where conflicting witness testimony was presented concerning which party had the right of way. Defendants also proffered Dawson’s testimony that she witnessed the accident and observed Tassin run the red light. Following trial, the district court ruled in Tassin’s favor and awarded damages. The district court found the preponderance of the evidence proved the accident was

caused solely by Hebert's negligence. The court of appeal vacated the ruling of the district court and remanded the case for new trial finding the trial court abused its discretion in excluding Dawson's testimony, and the exclusion interdicted the fact-finding process. A trial judge has great discretion in conducting a trial, which discretion includes the admissibility of witness testimony. *See* La. C.C.P. art. 1631; *Palace Properties, L.L.C. v. Sizeler Hammond Square Ltd. P'ship*, 2001-2812 (La. App. 1 Cir. 12/30/02), 839 So. 2d 82, 91, *writ denied*, 2003-0306 (La. 4/4/03), 840 So. 2d 1219. In this case, the district court excluded Dawson's testimony because defendants failed to identify her "in their discovery responses, witness lists, or on the pre-trial order." Moreover, Dawson's proffered testimony was identical to that of other defense witnesses, and clearly cumulative. Considering the vast discretion given to district courts in conducting trial proceedings and ruling on evidentiary issues, we find the district court did not abuse that discretion in this case.

Given the particular facts of this case, we find the court of appeal erred and therefore reverse the ruling of the court of appeal and reinstate the ruling of the district court.

REVERSED.