

The Supreme Court of the State of Louisiana

**JOSE RODRIGUEZ-ZALDIVAR AND DYLCIO
RODRIGUEZ CRUZ**

No. 2022-C-01688

VS.

**CHARLES LEGGETT AND PROGRESSIVE
CASUALTY INSURANCE COMPANY**

IN RE: Progressive Security Insurance Company - Applicant Defendant; Applying
For Writ Of Certiorari, Parish of Orleans Civil, Civil District Court Number(s) 2015-
12246, Court of Appeal, Fourth Circuit, Number(s) 2021-CA-0478;

February 07, 2023

Writ application granted. See per curiam.

JDH

JLW

SJC

JTG

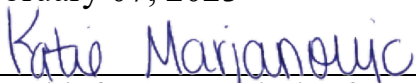
WJC

JBM

PDG

Supreme Court of Louisiana

February 07, 2023



Chief Deputy Clerk of Court
For the Court

February 7, 2023

SUPREME COURT OF LOUISIANA

No. 2022-C-01688

JOSE RODRIGUEZ-ZALDIVAR AND DYLCIO RODRIGUEZ CRUZ

VS.

**CHARLES LEGGETT AND PROGRESSIVE CASUALTY INSURANCE
COMPANY**

On Writ of Certiorari to the Court of Appeal, Fourth Circuit, Parish of Orleans
Civil

PER CURIAM

Granted. Although the court of appeal correctly found the district court made an evidentiary error affecting the judgment, for the reasons set forth by Judge Dysart, we find the court abused its discretion in remanding the case for a new trial. Because the record is otherwise complete, the appellate court should make its own independent *de novo* review of the record and determine the sufficiency of the evidence. *Cook v. Sullivan*, 2020-01471 (La. 9/30/21), 330 So. 3d 152, 157, *reh'g denied*, 2020-01471 (La. 12/7/21), 347 So. 3d 863. Accordingly, the judgment of the court of appeal is vacated and set aside insofar as it remands the case for a new trial, and the case is remanded to the court of appeal to conduct a *de novo* review of the record and render judgment accordingly.