

The Supreme Court of the State of Louisiana

THOMAS HUNT

No. 2024-CC-01451

VS.

KYLIE E. JOHNSON, ARCH INSURANCE
COMPANY, COOP RPG, INC., AND
CHICK-FIL-A, INC.

IN RE: Kylie E. Johnson - Applicant Defendant; Arch Insurance Company -
Applicant Defendant; CMS Squared Management, LLC - Applicant Defendant;
Applying For Supervisory Writ, Parish of East Baton Rouge, 19th Judicial District
Court Number(s) 733703, Court of Appeal, First Circuit, Number(s) 2024 CW 0822;

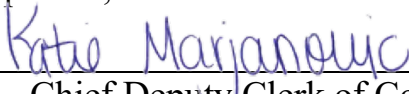
April 01, 2025

Writ application granted. See per curiam.

CRC
JLW
WJC
JBM
PDG
JMG

Hughes, J., dissents and would deny.

Supreme Court of Louisiana
April 01, 2025



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2024-CC-01451

THOMAS HUNT

VS.

**KYLIE E. JOHNSON, ARCH INSURANCE COMPANY, COOP RPG, INC.,
AND CHICK-FIL-A, INC.**

**On Supervisory Writ to the 19th Judicial District Court,
Parish of East Baton Rouge**

PER CURIAM

Plaintiff filed suit against defendants alleging he sustained a cervical disc herniation and a lumbar disc bulge as a result of an automobile accident. Following the accident, plaintiff treated with an interventional pain management physician, Dr. Sean Graham. Thereafter, plaintiff was examined by Dr. Kelly Scrantz, a neurosurgeon. Dr. Scrantz ultimately recommended cervical surgery. Defendants requested that plaintiff undergo two independent medical examinations by Dr. Fred DeFrancesch, a pain management specialist, and Dr. Everett Robert, a neurosurgeon. Plaintiff submitted to the examination by Dr. DeFrancesch but refused to submit to an examination by Dr. Robert.

Defendants filed a motion to compel plaintiff to submit to the examination by Dr. Robert. The district court denied the motion, finding an additional examination by a neurosurgeon was not warranted because defendants already chose to have plaintiff examined by a pain management physician. After the court of appeal denied supervisory relief, defendants applied to this court.

A basic premise of our system of justice is that both sides to a dispute stand on equal footing in gathering evidence and preparing for trial. *Hicks v. USAA Gen. Indem. Co.*, 2021-00840 (La. 3/25/22), 339 So. 3d 1106, 1112. The discovery rules

are not ends in themselves, but are meant to aid in “the search for the truth.” *Id.* (quoting *Robin v. Associated Indem. Co.*, 297 So. 2d 427, 430 (La. 1973)).

With these basic precepts in mind, we turn to the question of whether defendants are entitled to compel plaintiff to submit to an additional examination. An order for an independent medical examination must be based on good cause. La. Code Civ. P. art. 1464. In order to establish good cause, the moving party must “establish a reasonable nexus between the requested examination and the condition in controversy.” *Hicks*, 339 So. 3d at 1113–14. Courts have permitted additional independent medical examinations when the additional medical information has been shown reasonably necessary for the defendants to prepare to defend the case, and the request is not oppressive to plaintiff. See *Greco v. Paternostro*, 305 So. 2d 751, 752 (La. App. 4th Cir. 1974); see also *Woods v. Grain Dealers Mut. Ins. Co.*, 159 So. 2d 410, 413 (La. App. 2nd Cir. 1963) (explaining an additional examination may be permitted if it is “materially helpful to the court.”).

In the instant case, plaintiff was treated by both an interventional pain management physician and a neurosurgeon, who has now recommended surgery. Plaintiff alleges that the second independent medical examination was requested because the defense wanted a “second bite at the apple” after being displeased with the opinion rendered in the first examination. But, both of these independent medical examinations were requested **before** the first examination occurred. And both independent medical examinations are in the same specialties as plaintiff’s treating physicians. The second examination requested in this case cannot be said to have been requested due to any concerns about the first opinion.

Considering these facts, we find defendants have demonstrated good cause for an additional independent medical examination of plaintiff by their neurosurgeon, as such an examination is reasonably necessary for the preparation of the defense and is not oppressive to plaintiff. Accordingly, the writ is granted and made

peremptory. The judgment of the district court is reversed, and the motion to compel plaintiff to submit to an examination by Dr. Everett Robert is granted. The case is remanded to the district court for further proceedings.