

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

THEA A. SMITH, CURATRIX ON
BEHALF OF THE INTERDICTED
MAJOR, NICOLE M. SMITH

NO. 2014 CW 1134

VERSUS

JOSHUA J. LANDRY, STATE FARM
MUTUAL AUTOMOBILE INSURANCE
COMPANY, AND THE STATE OF
LOUISIANA, DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT

AUGUST 8, 2014

In Re: State of Louisiana, Department of Transportation and
Development, applying for expedited supervisory writs,
16th Judicial District Court, Parish of St. Mary, No.
123,053.


**BEFORE: WHIPPLE, C.J., PARRO, McCLENDON, WELCH, AND
HIGGINBOTHAM, JJ.**

WRIT GRANTED. The trial court's August 6, 2014 ruling,
denying in part the motion in limine to exclude from trial any
evidence of the Allen Leger accident is reversed. The trial
court's ruling is an abuse of discretion to the extent it found
the cause of the Leger accident is the ultimate question for the
jury and can be presented by expert testimony. The plaintiff's
failure to establish the predicate that the cause of the Leger
accident was the same or similar to the accident at issue
renders the evidence inadmissible. **Maldonado v. Kiewit Louisiana
Co.**, 2012-1868 (La. App. 1 Cir. 5/30/14), ___ So.3d ___.
Accordingly, judgment is hereby rendered, granting the motion in
limine *in toto* and remanding for proceedings consistent with
this action.

PMc
TMH
RHP

WHIPPLE, C.J. AND WELCH, JJ., dissent and would decline to
exercise this Court's supervisory jurisdiction. The criteria
set forth in **Herlitz Construction Company, Inc. v. Hotel
Investors of New Iberia, Inc.**, 396 So.2d 878 (La. 1981) are not
met.

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DEPUTY CLERK OF COURT
FOR THE COURT