

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

ZOILA HERNANDEZ AND DAVID  
HERNANDEZ

NO. 2021 CW 1366

VERSUS

FATE SCALES, PRATT  
(CORRUGATED LOGISTICS), LLC  
AND TRAVELERS PROPERTY AND  
CASUALTY INSURANCE COMPANY  
OF AMERICA

**DECEMBER 15, 2021**

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In Re: Zoila Hernandez and David Hernandez, applying for  
supervisory writs, 21st Judicial District Court,  
Parish of Tangipahoa, No. 2016-0001067.

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**BEFORE: WHIPPLE, C.J., McDONALD, PENZATO, LANIER, AND WOLFE, JJ.**

**WRIT GRANTED.** The trial court's September 27, 2021 judgment granting the motion in limine filed by defendants, Fate Scales, Pratt Industries, Inc., Travelers Property and Casualty Insurance Company of America, and Great American Insurance Company, to exclude any testimony regarding the EEG/ERP studies and DTI imaging performed on plaintiff is reversed. As a general rule, the factual basis of an expert's opinion goes to the credibility of the testimony, not its admissibility, and it is up to the opposing party to examine the factual basis of the expert's opinion in cross-examination. La. C.E. art. 702; **Copell v. Arceneaux Ford, Inc.**, 2020-299 (La. App. 3 Cir. 6/9/21), 322 So.3d 886, 893. Accordingly, we find the trial court abused its discretion, and the motion in limine is denied.

VGW  
WIL  
EW

**McDonald and Penzato, JJ.**, dissent. The criteria set forth in **Herlitz Construction Co., Inc. v. Hotel Investors of New Iberia, Inc.**, 396 So.2d 878 (La. 1981) (*per curiam*) are not met.

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DEPUTY CLERK OF COURT  
FOR THE COURT