

**ANTOINETTE B. CARTER  
AND GOVERNMENT  
EMPLOYEES INSURANCE  
COMPANY**

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**NO. 2001-CA-1145**

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**C/W**

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**NO. 2001-CA-1146**

**VERSUS**

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**COURT OF APPEAL**

**ALBERT J. BELL, JR.,  
MICHELLE BELL, REYNAUD  
ALLEN STERN, AND/OR  
REGIONAL TRANSIT  
AUTHORITY (RTA)**

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**FOURTH CIRCUIT**

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**STATE OF LOUISIANA**

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**CONSOLIDATED WITH:**

**MICHELLE BELL AND  
ALBERT J. BELL, JR.**

**VERSUS**

**REGIONAL TRANSIT  
AUTHORITY, TRANSIT  
MANAGEMENT OF  
SOUTHEAST LOUISIANA,  
INC., REYNAUD ALLEN  
STERN AND CITY OF NEW  
ORLEANS**

**APPEAL FROM  
CIVIL DISTRICT COURT, ORLEANS PARISH  
NOS. 95-14588 C/W 95-17481, DIVISION "G-11"  
Honorable Robin M. Giarrusso, Judge**

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**JOAN BERNARD ARMSTRONG**

**JUDGE**

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(Court composed of Judge Joan Bernard Armstrong, Judge Steven R. Plotkin  
and Judge Terri F. Love)

**JOHN B. APPEL, Jr.**  
**JOHN J. MOLAISON, Jr.**  
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COUNSEL FOR DEFENDANT/APPELLEE **ALBERT J. BELL, Jr.**  
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IN PROPER PERSON, DEFENDANT/APPELLANT

**AFFIRMED.**

This is an automobile personal injury case. We affirm.

Plaintiff Albert Bell was driving on Julia Street toward the intersection of Julia Street and South Rampart Street. An RTA bus was driving on South Rampart Street toward the same intersection. Both vehicles entered the intersection at the same time and, consequently, collided. The bus then careened into several parked cars. Mr. Bell and his wife, who was riding with him as a passenger, sued RTA and the bus driver. The owner of one of the parked cars, Antoinette Carter, and her insurer, GEICO, sued Mr. Bell, RTA and the bus driver.

The issue is who had the green light at the intersection of Julia Street

and South Rampart Street: Mr. Bell or the RTA bus? Only Mr. Bell and the bus driver testified as to this issue. The trial court resolved this issue of credibility in favor of the bus driver. Thus, the trial court dismissed the claim of Mr. Bell and his wife against RTA and the bus driver. The trial court also dismissed all other claims of all parties. Only Mr. Bell has appealed.

Mr. Bell was represented by counsel in the trial court. However, he is proceeding pro se on appeal. We note this because Mr. Bell's points on appeal all relate to matter as to which his attorney made no objection. We also note that Mr. Bell himself was present at the trial with his attorney.

Mr. Bell complains on appeal of the fact that the bus driver was subpoenaed for trial, but testified by deposition. The trial date had been set and continued several times. Each time, except the date on which the case was actually tried, the bus driver appeared. However, on the date that the case was actually tried, he did not appear (apparently due to an emergency hospitalization). In order to avoid yet another continuance, the trial court proposed that it would hold the record open to allow the deposition of the bus driver to be taken and submitted to the trial court. Neither Mr. Bell's

attorney nor any other party objected. In fact, the trial court appears to have expressly asked all counsel if this procedure was acceptable and none objected. Mr. Bell was present in court as this procedure was agreed to. In sum, no objection was preserved in the trial court to the procedure of the bus driver's testifying by deposition. Moreover, the trial had been continued so many times that, although the accident occurred in 1995, the trial did not take place until 2000. It was not unreasonable for the trial court and all counsel to agree that the bus driver testify by deposition because the alternative was yet another continuance.

Next, Mr. Bell argues that the trial court erred in denying his request for a continuance of the trial until the bus driver appeared. However, the record contains no such request for continuance, so we can find no error in this regard. Further, the agreement to have the bus driver testify by deposition eliminated any need for a continuance.

Mr. Bell complains on appeal that the police accident report was improperly entered into evidence and that the police officer who authorized that report, who had been subpoenaed, did not appear at trial to explain the police report. However, the police report was not entered into evidence.

Mr. Bell's own attorney used one portion of the police report, the accident scene diagram, to question Ms. Carter, the owner of a damaged parked car, as to the location of her car. Of course, Mr. Bell can have no complaint about that. Also, the police officer had been subpoenaed by GEICO and, pursuant to a stipulation, GEICO did not even appear at trial, so GEICO's attorney probably told the police officer that he did not need to appear. In any event, assuming that Mr. Bell was entitled to rely upon the GEICO subpoena to the police officer, Mr. Bell's attorney made no objection to proceeding without the police officer present. Also, the dispositive issue as to Mr. Bell's claim is whether Mr. Bell or, instead, the RTA bus, had the green light and Mr. Bell has not suggested how the police officer's testimony would be relevant to that issue.

Lastly, Mr. Bell complains on appeal as to the length of time it took for the bus driver's deposition to be taken and submitted to the trial court. Although we do not know the reasons for the specific length of time it took for the bus driver to be deposed, the record does not reflect any lack of diligence upon the part of anyone. In any event, although unnecessary delay is always to be avoided where possible, the length of time it took to depose

the bus driver did not affect the outcome of the case.

For the foregoing reasons, we affirm the judgment of the trial court.

**AFFIRMED.**