

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

PATRICIA BERGERON, GEORGE
BERGERON, JR., AND WENDY
BERGERON, INDIVIDUALLY AND ON
BEHALF OF HER MINOR CHILD,
ALEXIS BERGERON, AND JENNIFER
TUTTLE HOPKINS, INDIVIDUALLY
AND ON BEHALF OF HER MINOR
CHILD, ABBIGAIL TUTTLE, AND
WILLIAM TULAK AND HEATHER
TULAK, INDIVIDUALLY AND ON
BEHALF OF THEIR MINOR
CHILDREN, MACKENZIE TULAK AND
IAN TULAK

NO. 2013 CW 1996

VERSUS

APR 28 2014

LANIER JAMES SOUDELIER, POWER
TORQUE SERVICES, LLC,
AMERICAN STATES INSURANCE
COMPANY, AMERICA FIRST
INSURANCE COMPANY, AND
LIBERTY MUTUAL INSURANCE
COMPANY

In Re: Patricia Bergeron, George Bergeron, Jr., and Wendy Bergeron, individually and on behalf of her minor child, Alexis Bergeron, and Jennifer Tuttle Hopkins, individually and on behalf of her minor child, Abbigail Tuttle, and William Tulak and Heather Tulak, individually and on behalf of their minor children, Mackenzie Tulak and Ian Tulak, applying for supervisory writs, 32nd Judicial District Court, Parish of Terrebonne, No. 167,907.

BEFORE: KUHN, HIGGINBOTHAM, AND THERIOT, JJ.

WRIT GRANTED IN PART AND DENIED IN PART. We agree with the trial court that evidence of the 2010 arrest for possession of marijuana is not admissible as an exception to La. Code of Evid. Art. 404(B) because it is not sufficiently related to the issue of exemplary damages relating to a moving violation, and the probative value of this evidence is outweighed by the risk of unfair prejudice to the defendant. See **Angeron v. Martin**, 93-2381 (La. App. 1st Cir. 12/22/94), 649 So.2d 40. Accordingly, relators' writ is **denied** with regard to the trial court's ruling on this issue. However, we **grant the writ in part**, in order to reverse the trial court's ruling holding that the evidence of the 2010 arrest for a hit and run violation is inadmissible as not being sufficiently related to the issue of exemplary damages. We find that evidence of a hit and run violation is relevant to the issue of exemplary damages and that its probative value is not outweighed by a risk of unfair prejudice to the defendant. However, we note that the evidence of the arrest for the 2010 hit and run violation must be in properly authenticated, non-hearsay form, pursuant to La. Code of Evid. Arts. 801(C) and 802. With regard to the traffic tickets,

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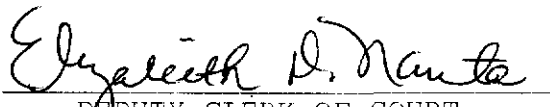
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the writ is **granted in part** and the trial court's ruling is **reversed** only with regard to all tickets for *moving vehicular violations* for which the plaintiffs can show that there has been no dismissal of the ticketed charge and for which the plaintiffs can produce properly authenticated, non-hearsay evidence, pursuant to La. Code of Evid. Arts. 801(C) and 802. In all other respects, the plaintiffs' writ, insofar as it addresses the trial court's ruling regarding the tickets, is **denied**.

MRT
JEK
TMH

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT