

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

BLAKE H. KOCHENDORFER

NO. 2015 CW 1324

VERSUS

KAILA B. KELLY, ROBERT  
AUTRY, ALLSTATE INSURANCE  
COMPANY AND WEST BEND MUTUAL  
INSURANCE COMPANY

**DEC 14 2015**

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In Re: Kaila B. Kelly, Robert Autry and Allstate Insurance Company, applying for supervisory writs, 22nd Judicial District Court, Parish of St. Tammany, No. 2013-15511.

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**BEFORE: McDONALD, McCLENDON, WELCH, THERIOT, AND DRAKE, JJ.**

**WRIT GRANTED WITH ORDER.** The trial court's July 13, 2015 and July 23, 2015 judgments are reversed, and the trial court is instructed to order the plaintiff to submit to an independent medical examination by Dr. Terry Habig, an orthopedic surgeon selected by the relators. Relators have demonstrated good cause for requiring the independent medical examination pursuant to La. Code Civ. P. art. 1464, based on issues pertaining to the plaintiff's on-going complaints of injury and medical treatment, including possible surgery. Fundamental fairness mandates that the relators be granted a timely and fair chance to develop independent evidence and a defense. **Cantwell v. Garcia**, 522 So. 2d 721, 723 (La. App. 4th Cir.), writ denied, 525 So. 2d 1058 (La. 1988).

**MRT  
EGD  
PMc  
JEW**

**McDonald, J.**, dissents. I would deny the writ on the basis that this Court should decline to exercise its supervisory jurisdiction. **Herlitz Construction Company, Inc. v. Hotel Investors of New Iberia Inc.**, 396 So.2d 878 (La. 1981).

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DEPUTY CLERK OF COURT  
FOR THE COURT