

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

ASHLEY DYER

NO. 2019 CW 1605

VERSUS

AMERICAN SERVICE INSURANCE  
COMPANY, SECURE PATIENT  
DELIVERY SHUTTLE, LLC, AND  
JEFFERY DUET

**DECEMBER 5, 2019**

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In Re: American Service Insurance Company and Secure Patient Delivery Shuttle, LLC, applying for supervisory writs, 19th Judicial District Court, Parish of East Baton Rouge, No. 672372.

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**BEFORE: McCLENDON, WELCH, AND HOLDRIDGE, JJ.**

**STAY DENIED; WRIT GRANTED IN PART WITH ORDER; WRIT DENIED IN PART.** The right of a litigant to a jury trial is fundamental in character, and the courts will indulge every presumption against a waiver, loss, or forfeiture thereof. **Alkazin v. City of Baton Rouge**, 97-0738 (La. App. 1st Cir. 11/7/97), 705 So.2d 208, 211-12, citing **Champagne v. American Southern Insurance Company**, 295 So.2d 437, 439 (La. 1974). The relators, American Service Insurance Company and Secure Patient Delivery Shuttle, LLC, timely requested a jury and filed the requisite cash deposit for a jury trial in accordance with La. Code Civ. P. art. 1734.1. Thus, the district court abused its discretion by denying the relators' request to accept the cash deposit for jury costs. Accordingly, the trial court is ordered to reinstate the jury trial as requested by American Service Insurance Company and Secure Patient Delivery Shuttle, LLC. The trial court also abused its discretion by denying the relators' motion to extend discovery and their motion to continue trial. Accordingly, the trial court's December 2, 2019 ruling denying the relators' motion to extend discovery and motion to continue trial is reversed and the relators are granted a continuance of trial for a minimum of sixty days and additional time for discovery until thirty days prior to the new trial date. The portion of the writ seeking review of the trial court's ruling denying the relators' motion to exclude the testimony of Lacy Sapp and Dr. Jolly is denied as moot in light of the extension of time for discovery and continuance of trial. The trial court has yet to rule on the relators' motion to strike items in the plaintiff's pre-trial order and therefore the writ is denied as to that issue as there is no ruling for this court to review.

**PMc**  
**JEW**  
**GH**

COURT OF APPEAL, FIRST CIRCUIT



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