

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

DIONNE BURNS, INDIVIDUALLY AND ON
BEHALF OF HER MINOR CHILDREN,
GARRETT BURNS AND GAGE BURNS

NO. 2019 CW 1589

VERSUS

HOUSTON SPECIALTY INSURANCE
COMPANY, WELDING TESTING X-RAY,
INC. AND MATTHEW T. AYMOND

JANUARY 16, 2020

In Re: Houston Specialty Insurance Company, Welding X-Ray,
Incorporated and Matthew T. Aymond, applying for
supervisory writs, 18th Judicial District Court,
Parish of Pointe Coupee, No. 48435.

BEFORE: McDONALD, McCLENDON, WELCH, HOLDRIDGE, AND CHUTZ, JJ.

STAY DENIED; WRIT GRANTED WITH ORDER. The trial court's October 16, 2019 ruling which denied the Motion to Compel Independent Medical Evaluation filed by defendants, Houston Specialty Insurance Company, Welding Testing X-Ray, Incorporated and Matthew T. Aymond, was an abuse of discretion and is reversed. We find that the mental condition of plaintiff is in controversy and plaintiff has given notice of intent to use Dr. Andrews, a clinical neuropsychologist, who has treated her in connection with injuries at issue herein. We further find that defendants have shown good cause for an additional medical examination by Dr. Greve, licensed clinical psychologist, but have not shown good cause for additional testing by Dr. Greve, and the examination shall not include additional testing by Dr. Greve. This matter is remanded to the trial court with instructions to comply with La. Code Civ. P. art. 1464 to specify the time, place, manner, conditions, and scope of that examination.

JMM
PMc

Holdridge J., concurs.

Welch and Chutz, JJ., dissent and would deny on the showing made. La. Code Civ. P. art. 1464 allows the court, upon motion for good cause, to order a party to submit to an additional medical opinion regarding an examination by a licensed clinical psychologist who is not a physician, provided the party has given notice of intention to use such an expert. Defendants herein failed to prove that plaintiff provided notice of intent to use a licensed clinical psychologist as an expert. Specifically, defendants only produced a portion of Dr. Andrews' report, which indicated she was a clinical neuropsychologist, and did not produce evidence that Dr. Andrews is a licensed clinical psychologist as required by the foregoing article.

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DEPUTY CLERK OF COURT
FOR THE COURT