

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

LISA R. FRIEDLEY AND ROBERT
J. FRIEDLEY

NO. 2020 CW 0989

VERSUS

PAUL V. PULIDO, GUNITE
EXPRESS, AND GENERAL STAR
INDEMNITY COMPANY

NOVEMBER 23, 2020


In Re: Raul V. Pulido, Gunite Express, Starr Indemnity & Liability Company, and Continental Insurance Company, applying for supervisory writs, 23rd Judicial District Court, Parish of Ascension, No. 120260.

BEFORE: McDONALD, HOLDRIDGE, AND PENZATO, JJ.

WRIT GRANTED. The portion of the district court's October 5, 2020 judgment granting the Motion to Quash and for Protective Order filed by Plaintiffs, Lisa R. Friedley and Robert J. Friedley, is hereby reversed. "A party may . . . discover facts known by and opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial . . . upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means." La. Code Civ. P. art. 1425(D)(2). Herein, Defendants, Raul V. Pulido, Gunite Express, and Starr Indemnity & Liability Company ("Defendants"), successfully demonstrated exceptional circumstances warranting discovery, as the Friedleys' non-testifying expert, Wayne Winkler, is the only expert who had the opportunity to examine the trailer that was struck by Raul V. Pulido before it was sold and repaired. As such, "there is no practicable method of reproducing that scene." See **Fisher-Rabin Medical Center v. Burdick Corp., a Div. of Kone Instruments, Inc.**, 525 So.2d 1178, 1181 (La. App. 5th Cir.), writ denied, 531 So.2d 475 (La. 1988). Accordingly, the Motion to Quash and for Protective Order filed by Plaintiffs, Lisa R. Friedley and Robert J. Friedley, is denied.

JMM
GH
AHP

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT