

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

WALTER GEORGE AND JANIE
GEORGE

NO. 2022 CW 0371

VERSUS

PROGRESSIVE WASTE SOLUTIONS
OF LA, INC. AND ABC
INSURANCE COMPANY

JUNE 23, 2022

In Re: Walter George and Janie George, applying for
supervisory writs, 32nd Judicial District Court,
Parish of Terrebonne, No. 178204.

BEFORE: WHIPPLE, C.J., GUIDRY AND WOLFE, JJ.

WRIT DENIED. The criteria set forth in **Herlitz Construction Co., Inc. v. Hotel Investors of New Iberia, Inc.**, 396 So.2d 878 (La. 1981) (per curiam) are not met.

VGW
EW

Guidry, J., dissents and would grant the writ. Defendant, Progressive Waste Solutions of LA, Inc., failed to prove that the agreement between Ascendant Healthcare, LLC and Plaintiff's medical team provided a discount to Plaintiff such that evidence of the full amount billed is barred under the collateral source rule. **Dupont v. Costco Wholesale Corp.**, 17-4469, 2019 WL 5959564 (E.D. La. 11/13/19). In the absence of evidence that Plaintiff is not liable for the full amount billed, Defendants cannot subtract the discounted purchase price from a theoretical damage award to Plaintiff. **Ochoa v. Aldrete**, 2021-632 (La. App. 5 Cir. 12/8/21), 335 So.3d 957. Accordingly, I would reverse the trial court's February 25, 2022 judgment, and the Defendant's Renewed Motion in Limine to Exclude or Strike Medical Bills Charged to Ascendant Healthcare, LLC and Assigned to Southern Magnolia Medical, LLC, barring Plaintiff from introducing evidence of the full \$192,020.14 billed by his medical providers, would be denied.

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DEPUTY CLERK OF COURT
FOR THE COURT