

ARNOLD L. KIRSCHMAN * **NO. 2012-C-0794**
VERSUS *
LISA S. KIRSCHMAN * **COURT OF APPEAL**
* **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**
* * * * *

APPLICATION FOR SUPERVISORY WRITS DIRECTED TO
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2006-6464, DIVISION "J"
Honorable Paula A. Brown, Judge
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JUDGE TERRI F. LOVE
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(Court composed of Judge Terri F. Love, Judge Max N. Tobias, Jr., Judge Paul A. Bonin)

ON APPLICATION FOR REHEARING

BONIN, J., DISSENTS FROM GRANTING REHEARING

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**REHEARING GRANTED;
WRIT APPLICATION DENIED**

AUGUST 24, 2012

Respondent's Application for Rehearing is granted. We reverse our original writ application disposition that granted the relator's application.

Louisiana Code of Evidence Article 508 prohibits the issuance of subpoenas and court orders to lawyers and their representatives where the purpose is to seek privileged information. The article also provides requirements for the issuance of subpoenas and provides a procedural vehicle for contesting any such subpoena. In this case, neither a subpoena nor a court order is at issue.

We further find that testimony from Ms. Kirschman is not hearsay and does not serve to circumvent La. C. Evid. art. 508. Although Ms. Kirschman cannot testify about the substance of the letters, under the hearsay exceptions of La. C. Evid. art. 803(3), she can testify regarding her then-existing state of mind and intent preceding the drafting of and the exchange of the letters between her attorney and Mr. Kirschman's attorney.

Additionally, Mr. Kirschman has failed to show that the trial court abused its discretion in admitting the letters into evidence.

Accordingly, we deny the relator's writ application.

**REHEARING GRANTED;
WRIT APPLICATION DENIED**