

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-03-00634-CV

Ford Motor Company, Appellant

v.

Tiburcio Ledesma, Jr., Appellee

**FROM THE DISTRICT COURT OF BASTROP COUNTY, 335TH JUDICIAL DISTRICT
NO. 23,425, HONORABLE TERRY L. FLENNIKEN, JUDGE PRESIDING**

C O N C U R R I N G O P I N I O N

I join in the judgment. In light of the Texas Supreme Court's recent guidance on the admissibility of expert testimony, *Volkswagen of Am., Inc. v. Ramirez*, No. 02-0557, 2004 Tex. LEXIS 1429 (Tex. Dec. 31, 2004), I have reservations regarding the district court's admission of some of the expert testimony Ford challenges. *See also Gammill v. Jack Williams Chevrolet, Inc.*, 972 S.W.2d 713, 727 (Tex. 1998); *E.I. du Pont de Nemours & Co. v. Robinson*, 923 S.W.2d 549, 557 (Tex. 1995). However, even under *Volkswagen*, I agree with the majority that the district court did not abuse its discretion in permitting Ledesma's expert Geert Aerts to testify regarding his theory that uneven u-bolt leg lengths eventually caused Ledesma's truck axle and driveshaft to separate, causing the accident.

Based on this and other admissible evidence in the record, I would conclude that any error in admitting other expert testimony was harmless and affirm the judgment.

Bob Pemberton, Justice

Before Chief Justice Law, Justices B. A. Smith and Pemberton

Filed: May 5, 2005