

**Fifth Circuit Court of Appeal
State of Louisiana**

NO. 25-C-545

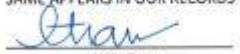
ANTHONY PLAIER

VERSUS

ATAIN INSURANCE COMPANY AND SELA CONSTRUCTION,
LLC

IN RE ATAIN INSURANCE COMPANY AND SELA CONSTRUCTION, LLC
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
DONALD A. ROWAN, JR., DIVISION "L", NUMBER 850-963

November 14, 2025

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS

Linda Tran
First Deputy, Clerk of Court

Panel composed of Judges Marc E. Johnson,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT GRANTED; JUDGMENT VACATED

Atain Insurance Company and SELA Construction, LLC seek
review of the trial court's October 25, 2025 denial of their *Daubert*
Motion to Exclude Michael J. Carbo, in this personal injury case.

The application shows that the trial court failed to respond to the
relators' request for reasons after denying its motion. La. C.C.P. art.
1425(F)(4) requires that a trial court must provide its findings of fact,
conclusions of law, and reasons for judgment when ruling on whether a
witness will qualify as an expert or whether the witness' methodologies

are reliable. When the trial court fails to comply with Article 1425(F)(4), and the parties have sought supervisory review of the ruling prior to a judgment on the merits of the case, the proper remedy for a trial court's failure to give detailed reasons for the ruling as required by La. C.C.P. art. 1425(F)(4) is to vacate the trial court's ruling and remand for compliance therewith. *See Everett v. Air Products and Chemicals, Inc.*, 19-1975 (La. 5/26/20), 296 So.3d 1011; *Taylor v. Exxon Mobil Corp.*, 23-759 (La. App. 4 Cir. 12/27/23), 381 So.3d 108, 110. *See also, e.g., Blair v. Coney*, 19-795 (La. 4/3/20), 340 So.3d 775, 779-80.¹

Accordingly, the judgment denying the relator's Daubert motion is vacated. The matter is remanded for the trial court's compliance with the requirements of La. C.C.P. art. 1425(F).

Gretna, Louisiana, this 14th day of November, 2025.

JJM
MEJ
SUS

¹ Even if the trial court had supplied reasons for judgment, this Court would have been unable to consider the merits of the application. The relators did not move at the hearing to introduce their memorandum in support of the *Daubert* motion and all attached exhibits. We also note that no party introduced evidence at the hearing on the motion. Exhibits and attachments not properly and officially offered and admitted into evidence cannot be considered, even if it is physically filed into the trial court record. *Woods v. Ace Am. Ins. Co.*, No. 23-C-450, 2023 WL 7140887, at *2 (La. App. 5 Cir. Oct. 31, 2023), *writs denied*, 23-1575 (La. 2/6/24), 378 So.3d 748, *and* 23-1635 (La. 2/6/24), 378 So.3d 751. A trial court commits an error when deciding a motion based on documents not admitted into evidence. *Soutullo v. LAMMICO*, No. 24-C-441, 2024 WL 4586926, at *2 (La. App. 5 Cir. Oct. 28, 2024).

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

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CURTIS B. PURSELL
CLERK OF COURT

25-C-545

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Megan C. Kiefer (Respondent)	Michelle M. Davis (Relator)
	Lou Anne Milliman (Relator)

MAILED

Jennifer Cortes-Johnson (Relator)	Heather W. Angelico (Respondent)
Michael M. St. Romain (Relator)	Attorney at Law
Kaylin K. Storey (Relator)	701 Poydras Street
Attorneys at Law	Suite 4040
1321 Ochsner Boulevard	New Orleans, LA 70139
Suite 200	
Covington, LA 70433	

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