

Fifth Circuit Court of Appeal State of Louisiana

No. 26-C-275

NORA INDOVINA, INDIVIDUALLY AND AS REPRESENTATIVE
OF THE ESTATE OF EMILY BOFFONE

versus

ROYAL SEAFOOD, LLC, LIANGAN LI, AND MEIZHU ZHENG

IN RE ROYAL SEAFOOD, LLC, LIANGAN LI, AND MEIZHU ZHENG
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
E. ADRIAN ADAMS, DIVISION "G", No. 831-992

TRUE COPY

July 29, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Stephen J. Windhorst,
Michael P. Mentz, Pro Tempore, and Timothy S. Marcel

WRIT DENIED

In this matter, plaintiff, Nora Indovina, individually, and as a Representative of the Estate of Emily Buffone, filed an action for wrongful death, survival, and negligence against defendants following the death of her mother during Hurricane Ida. Defendants in this matter seek this Court's supervisory review of the trial court's denial of their motion to strike plaintiff's amended witness list as untimely. Finding no error in the trial court judgment, this writ is denied.

At the time of Hurricane Ida, plaintiff's mother, Emily Buffone, resided in a mobile home directly next door to Royal Seafood, L.L.C., which had multiple 40-foot cargo shipping containers on its property. During Hurricane Ida, plaintiff alleges that one or multiple of the 40-foot cargo shipping containers on the property began

to float, becoming dislodged. Plaintiff avers that a container struck her mother's home, knocking it from its foundation and causing it to sink in the flood waters. Plaintiff's mother was found deceased and pinned under the refrigerator after the storm. Thereafter, plaintiff filed suit, naming Royal Seafood, L.L.C., Liangan Li, and Meizhu Zheng as defendants.

Defendants filed a motion for summary judgment on December 12, 2025, asserting that plaintiff could not prove causation, i.e., she could not prove that the cargo shipping container (1) struck her mother's home, and (2) removed it from its foundation, which caused the home to sink into the floodwaters and lead to her mother's death. Plaintiff filed an opposition to the motion for summary judgment on February 13, 2026. In the opposition, plaintiff relied on the affidavit and report of Michael K.A., Gurtler, a general contractor expert witness, and the affidavit of Yuhongjian Peng, a "native speaker of the Chinese dialect referred to as Mandarin Common" to defeat defendants' assertion that plaintiff will not be able to prove causation. These witnesses had not been disclosed prior to the filing of plaintiff's opposition.

Defendants aver that plaintiffs habitually ignored scheduling orders during this matter. For example, they note that even plaintiff's original witness list, filed into evidence in 2024, was late because the deadline in the scheduling order was March 8, 2024, and plaintiff filed the list in April, 2024. This witness list did not identify Gurtler or Peng. Defendants further note that certain discovery responses remain outstanding. Plaintiff asserted that Gurtler and Peng had been retained as rebuttal witnesses to contest the expert report offered by defendants in their motion for summary judgment, and therefore the disclosures were not untimely because a litigant is not required to list rebuttal witnesses in a pre-trial order. *Tracy v. Jefferson Par. Through Dep't of Pub. Works*, 523 So. 2d 266 (La. Ct. App.), writ denied sub

nom. Tracy v. Par. of Jefferson Through Dep't of Pub. Works, 530 So. 2d 569 (La. 1988).

After filing the opposition on February 13, 2026, plaintiff forwarded an amended witness and exhibit list to defendants on March 5, 2026, that listed Gurtler, but not Peng. In response, defendants filed a motion to strike the amended witness list for untimely disclosure of witnesses. The trial court denied defendants' motion to strike on May 14, 2026, and ordered defendants to depose Gurtler by August 7, 2026. It is from this denial of the motion to strike that defendants file this writ application.

Louisiana state courts vest trial judges with "broad discretion" in controlling the admission of expert testimony and in regulating pre-trial discovery. *Preston v. Certain Underwriters at Lloyd's London*, 23-0277 (La. App. 4 Cir. 1/22/24), 381 So.3d 827. Louisiana state appellate courts review a trial court's decision to exclude an untimely disclosed expert witness under the abuse of discretion standard. *Id.* Louisiana Code of Civil Procedure Article 964 states that a court may "order stricken from any pleading any insufficient demand or defense or any redundant, immaterial, impertinent, or scandalous matter."

On the showing made, we find defendants did not show that the trial court's denial of its motion to strike the amended witness list was an abuse of the trial court's vast discretion. Accordingly, the writ application is denied.

Gretna, Louisiana, this 29th day of July, 2026.

MPM
SJW
TSM

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



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CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **07/29/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

A handwritten signature in blue ink, reading "Curtis B. Pursell", is written over a horizontal line.

CURTIS B. PURSELL
CLERK OF COURT

26-C-275

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable E. Adrian Adams (DISTRICT JUDGE)
Robert T. Garrity, Jr. (Respondent)

Brandon E. Davis (Relator)
Peter M. Meisner (Respondent)

MAILED

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