

Fifth Circuit Court of Appeal State of Louisiana

No. 26-C-495

JANA PODRET WIFE OF/AND ROGER WILLIAMS
INDIVIDUALLY AND ON BEHALF OF THEIR MINOR CHILD
CW

versus

KEHOE-FRANCE, INC., ET AL.

IN RE KEHOE-FRANCE, INC. AND ISP KEHOE HOLDINGS, LLC
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
STEPHEN D. ENRIGHT, JR., DIVISION "N", NUMBER 857-470

TRUE COPY

October 22, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Fredericka Homberg Wicker,
Marc E. Johnson, and John J. Molaison, Jr.

WRIT GRANTED

The plaintiffs, Jana Podret and Roger Williams, individually and on behalf of their minor child, filed suit against the defendants/relators, Kehoe-France, Inc. and ISP Kehoe Holdings, LLC, alleging that their daughter was inappropriately touched by another child while attending the defendants' preschool. After this incident, the plaintiffs lobbied the Legislature to pass legislation to impose more stringent standards on the student-teacher ratios and other measures including separate bathroom facilities for preschool students. This resulted in the passage of new legislation named for the plaintiffs' minor child in this case. Although the law itself will not be introduced at trial, the plaintiffs argued that they should be

permitted to testify as to their efforts to have the legislation passed, including their testimony before the Louisiana Senate, because this is part of the proof of their claims for mental anguish and emotional distress. The relators filed a motion in limine to exclude this evidence. The trial judge denied the relators' motion in limine. In this writ application, the relators seek expedited review of the October 9, 2026 written judgment denying this motion in limine.

The relators contend the evidence is irrelevant because the plaintiffs cannot recover under a theory that they suffered mental anguish and distress resulting from the incident. The relators also argue the evidence of the plaintiffs' campaign before the Legislature is highly prejudicial because the plaintiffs received an audience with the Legislature, which suggests to jurors that their account of the incident is more credible than that of the relators. The relators argue the plaintiffs' lobbying efforts are not relevant to the jury's determination of breach, causation, and damages, and even if they were, the probative value of evidence about the law is "substantially outweighed" by the prejudice to the relators that would follow.

A motion in limine presents an evidentiary matter that is subject to the great discretion of the trial court. *Moonan v. Louisiana Med. Mut. Ins. Co.*, 16-113, (La. App. 5 Cir. 9/22/16), 202 So.3d 529, 534, *writ denied*, 16-2048 (La. 1/9/17), 214 So.3d 869, citing *Heller v. Nobel Ins. Grp.*, 00-0261 (La. 2/2/00), 753 So.2d 841. Such a ruling is reviewed for abuse of discretion, and a trial court necessarily abuses that discretion when its ruling rests on an error of law. Because the judgment denying the motion in limine is an interlocutory ruling, the relators properly invoke this Court's supervisory jurisdiction. *See* La. C.C.P. art. 2201. We exercise that jurisdiction because the challenged ruling is "arguably incorrect," "there is no dispute of fact to be resolved," and the erroneous admission of this evidence at trial could not be adequately remedied on appeal from a final judgment. *See Herlitz Constr. Co. v. Hotel Investors of New Iberia, Inc.*, 396

So.2d 878 (La. 1981). In this matter, we find the trial court abused its discretion in denying the relators' motion in limine to exclude this evidence.

Considering the facts pled by the plaintiffs in this case, evidence of their lobbying efforts to obtain the passage of "Charlie's Law" is not relevant to any cognizable cause of action assertable by the plaintiffs. Even if the evidence were relevant, under La. C.E. art. 403, the resulting danger of unfair prejudice, confusion of the issues, and misleading the jury substantially outweighs any possible probative value. This new legislation, which postdates the incident, is named for the plaintiffs' child. It was advocated for by the plaintiffs and supported by their testimony before a Louisiana Senate committee. If the jury learns that the Legislature heard the plaintiffs' account of this incident and concludes that the Legislature enacted a law in response to the plaintiffs' efforts, it will inevitably view the Legislature as having accepted the plaintiffs' version of events and condemned the relators' practices as unsafe.

For these reasons, we grant this writ application and grant the relators' motion in limine prohibiting evidence of the plaintiffs' lobbying efforts before the Legislature.

Gretna, Louisiana, this 22nd day of October, 2026.

JJM
MEJ

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WICKER, J., CONCURRING WITH REASONS

I agree with analysis and result set forth in the opinion; respectfully, I write separately to more completely elucidate the reasons why the evidence that the plaintiffs seek to introduce is irrelevant.

As discussed by the writer, the plaintiffs allege in their lawsuit that, in 2024, a three-year old classmate touched their daughter inappropriately. They assert that the incident was made possible by inadequate supervision of the children by Relators. Plaintiffs were not present at the school at the time the alleged incident occurred but became aware of it later. In addition to claims made on their daughter's behalf, the plaintiffs seek damages for their own "[s]evere mental anguish and emotional distress." They claim that the evidence of their lobbying efforts relative to the enactment of "Charlie's Law," as the legislation advocated by the plaintiffs is commonly known, is relevant to these claims. On the other hand, Relators urge that this evidence is irrelevant as they cannot recover damages for their own mental anguish and distress allegedly suffered because of the alleged injuries to their child as a result of the incident.

In *Lejune v. Rayne Branch Hospital*, 556 So.2d 559 (La. 1990), the Louisiana Supreme Court revisited its long-standing rule that claims for mental anguish made by a person resulting from his knowledge of or witnessing injuries sustained by another were never recoverable. This rule was known as the “*Black Rule*,” so named because it was announced in *Black v. Carrollton Railroad Co.*, 10 La. Ann. 33, (1855). In *Lejune*, the Court ruled that such damages could be recovered under certain circumstances and by certain categories of persons. The Supreme Court’s ruling in *Lejune* was codified by the Louisiana Legislature the following year in La. C.C. art. 2315.6. Article 2315.6 provides:

A. The following persons ***who view an event causing injury to another person***, or who come upon the scene of the event soon thereafter, may recover damages for mental anguish or emotional distress that they suffer as a result of the other person's injury:

- (1) The spouse, child or children, and grandchild or grandchildren of the injured person, or either the spouse, the child or children, or the grandchild or grandchildren of the injured person.
- (2) The father and mother of the injured person, or either of them.
- (3) The brothers and sisters of the injured person or any of them.
- (4) The grandfather and grandmother of the injured person, or either of them.

B. To recover for mental anguish or emotional distress under this Article, the injured person must suffer such harm that one can reasonably expect a person in the claimant's position to suffer serious mental anguish or emotional distress from the experience, and the claimant's mental anguish or emotional distress must be severe, debilitating, and foreseeable. ***Damages suffered as a result of mental anguish or emotional distress for injury to another shall be recovered only in accordance with this Article.***

(Emphasis added).

While the plaintiffs claim that Article 2315.6 is not the exclusive pathway to the recovery of *Lejeune* damages, the plain language of Article 2315.6(B), highlighted above, states otherwise. The plaintiffs have stipulated that they do not have a cause of action for, and are not seeking, Article 2315.6 damages, although they have preserved their claims for loss of consortium. Thus, the ***only*** avenue for

them to recover damages in their own right for past and future mental anguish and suffering and emotional distress is Article 2315.6. Mental anguish, suffering, and emotional distress are not recoverable in a loss of consortium claim. *Mitchell v. Roy*, 10-563 (La. App. 3 Cir. 11/3/10), 51 So. 3d 153, 167, *writ denied*, 10-2695 (La. 1/28/11), 56 So. 3d 957, *citing Morrison v. Kappa Alpha Psi Fraternity*, 31,805, (La. App. 2 Cir. 5/7/99), 738 So.2d 1105, 1122, *writ denied*, 99–1607 (La.9/24/99), 749 So.2d 634, 99–1622 (La.9/24/99), 749 So.2d 635, 99–1668 (La.9/24/99), 747 So.2d 1120. Instead, the elements of a parent’s claim for loss of consortium of their child are (1) loss of love and affection, (2) loss of society and companionship, (3) loss of performance of material services, (4) loss of financial support, (5) loss of aid and assistance, and/or (6) loss of fidelity. *Mitchell*, 51 So.3d at 167.

Spears on Behalf of Spears v. Jefferson Parish School Board, 94-352 (La. App. 5 Cir. 11/16/94), 646 So.2d 1104, cited by Relators, involved a situation similar to the one presented here. In that case, a kindergarten student suffered emotional trauma and injuries due to the actions of a coach in charge of the boy while at school. His parents filed suit on his behalf, in which they sought damages in their own right for loss of consortium and for mental anguish they allegedly suffered as a result of the boy’s injuries. 646 So.2d 1104-06. As is the case here, prior to trial, the parents stipulated that they did not have an individual cause of action that met the requirements of La. C.C. art. 2315.6 (and *Lejune*) but reserved their loss of consortium claim. *Id.* at 1107. The trial court’s award of loss of consortium damages to the parents was based, in part on the ground that “they personally have suffered heartache and anxiety as a result of the trauma to their child.” *Id.*

On appeal, the defendants argued that the trial court’s reasoning supported an award for Article 2315.6 damages for mental anguish, which had been waived,

not for loss of consortium. *Id.* This Court agreed that “heartache and anxiety” were not elements of a loss of consortium claim and were the kind of claims cognizable only under Article 2315.6; nevertheless, the parents had introduced sufficient evidence of their separate loss of consortium claims to support the trial court’s award of loss of consortium damages. *Id.*

Here, the plaintiffs have stipulated that they do not have a claim under Article 2315.6. As a result of this stipulation, they may not assert any claim for mental anguish, suffering, or emotional distress, past, present, or future. Accordingly, evidence of their lobbying efforts to obtain the passage of “Charlie’s Law” is not relevant to any cognizable cause of action assertable by the plaintiffs in this case.

FHW

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
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JUDGES



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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 **10/22/2026** 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:

CURTIS B. PURSELL
CLERK OF COURT

26-C-495

E-NOTIFIED

24th Judicial District Court (Clerk)	
Honorable Stephen D. Enright, Jr. (DISTRICT JUDGE)	
Jack E. Truitt (Respondent)	Thomas M. Flanagan (Relator)
Anders F. Holmgren (Relator)	Kelly Gayle Juneau Rookard (Relator)
Michelle M. Davis (Respondent)	Lou Anne Milliman (Respondent)
	Richard C. Trahan (Respondent)

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