

SUPREME COURT OF LOUISIANA

No. 2008-CC-0481

IN RE: GRAMERCY PLANT EXPLOSION AT KAISER

**ON APPLICATION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEAL
FIFTH CIRCUIT, PARISH OF ST. JAMES**

CALOGERO, Chief Justice, would grant and assigns reasons.

While the law appears not to be entirely clear on when an appeal on the merits may be taken after a JNOV and new trial are granted, but those rulings are later reversed and the jury verdict reinstated by the court of appeal, I would come down on the side of allowing the appeal at this juncture, if for no other reason than it seems no appellate court has yet examined the merits of the jury verdict. Furthermore, the cases that come close to addressing the issue either tend to support the applicants' position or are inconclusive. *Junot v. Morgan*, 01-0237 (La. App. 1 Cir. 2/5/02), 818 So.2d 152, would favor the case being remanded to the district court to enter a judgment pursuant to the jury verdict and to permit further proceedings, including an appeal therefrom. And this court in *Vasalle v. Wal-Mart Stores, Inc.*, 01-0462 (La. 11/28/01), 801 So.2d 331, after reversing the JNOV and new trial order, simply reinstated the jury verdict, without any instruction to the district court; therefore, this court in *Vasalle* did not address whether an appeal on the merits might lie from the reinstated jury verdict.