

SUPREME COURT OF LOUISIANA

No. 2007-C-0363

JAKE PALERMO

VERSUS

THE PORT OF NEW ORLEANS, ET AL.

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL
FOURTH CIRCUIT, PARISH OF ORLEANS**

CALOGERO, Chief Justice, would grant the writ application and assigns reasons:

I would grant the plaintiffs' writ application to consider the plaintiffs' assignments of error. I am especially concerned about the possible abuse of the manifest error rule in the court of appeal's reversal of the district court's finding of liability on the part of the ship repair companies. The district court had found that the ship repair companies were liable for plaintiffs' damages because they failed to warn of dangers of asbestos exposure, failed to segregate their activities from the plaintiffs' decedents, and failed to provide a safe workplace. Although the court of appeal found evidence that the plaintiffs' decedents might have been exposed to asbestos because of the fault of the ship repair companies, it reversed the district court's finding of liability, stating that the record contained no evidence that such exposure was "substantial." Because I believe that the court of appeal may not have given proper deference to the district court's factual findings on this issue, I would grant the plaintiffs' writ to review the evidence on the liability of the ship repair companies.