

NUMBER 04-345

COURT OF APPEAL, THIRD CIRCUIT

STATE OF LOUISIANA

CHESAPEAKE OPERATING, INC.

VERSUS

ROBERT RICHARDSON, ET UX.

AMY, J., concurring.

I join the majority in its reversal of the granting of the motion in limine and the motion for partial summary judgment. With regard to the motion in limine, I agree with the majority that the trial court erred by rejecting the oil and gas leasing expert's affidavit. In my opinion, insofar as the trial court's ruling could be interpreted to have prohibited the expert from testifying at trial, as opposed to removing the affidavit from consideration in the summary judgment proceedings, I find any such ruling premature. Therefore, should a further hearing be required pursuant to La.Code Evid. art. 702 and the principles enunciated under *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S.Ct. 2786 (1993), I do not find our determination today preclusive of further consideration of admissibility under those standards. Furthermore, I join in the majority in its determination to reverse the motion to strike granted by the trial court. In my opinion, this issue is rendered moot by reversal of the partial summary judgment.