

11/27/02 "See News Release 085 for any concurrences and/or dissents."

SUPREME COURT OF LOUISIANA

No. 02-CC-2198

DANNY SANCHEZ

versus

GEORGIA GULF CORPORATION, ET AL.

WEIMER, J., concurring.

I concur in the writ grant.

In denying the writ, the court of appeal alluded to this court's opinion in **Independent Fire Insurance Co. v. Sunbeam Corp.**, 99-2181 (La. 2/29/00), 755 So.2d 226, which dealt with expert affidavits. Apparently, the court felt summary judgment was inappropriate because Georgia Gulf did not present an expert affidavit to counter plaintiff's expert affidavit regarding the accuracy of the drug testing. However, it is clear that there is no factual dispute concerning the validity of the drug testing because Georgia Gulf conceded it did not follow the statutory provisions. Quite simply, Georgia Gulf takes the position that even if the test was inaccurate, it had the power to terminate plaintiff at will. Thus, the question of whether the test was accurate or not is not an issue of fact that would preclude the consideration of a motion for summary judgement.