

**Fifth Circuit Court of Appeal
State of Louisiana**

No. 26-C-90

LOUIS NOEL
versus
CHEVRON U.S.A. INC., ET AL

IN RE CHEVRON U.S.A. INC., MARATHON OIL COMPANY
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
DONALD L. FORET, DIVISION "H", NUMBER 864-587

TRUE COPY

March 09, 2026



SUSAN BUCHHOLZ
DEPUTY CLERK

Panel composed of Judges Marc E. Johnson,
John J. Molaison, Jr., and Scott U. Schlegel

WRIT DENIED

The relators, Chevron U.S.A. Inc. and Marathon Oil Company, seek supervisory review of the trial court's February 10, 2026 judgment denying their exceptions of *res judicata*. For the following reasons, we deny this writ application.

On May 6, 2025, the plaintiff filed a petition against the relators and numerous other defendants alleging he contracted lung cancer because of workplace exposure to Naturally Occurring Radioactive Materials ("NORM"). The relators filed a peremptory exception of *res judicata* asserting that the plaintiff previously settled all claims against them for personal injuries, including future claims for cancer, arising from alleged occupational exposure to NORM.

A review of the writ application shows that neither party properly introduced evidence into the record at the January 27, 2026 hearing on the exceptions. At the

hearing on a peremptory exception, the exceptor bears the burden of proof. *State O/b/o T. J. & T. J. v. Johnson*, 20-154 (La. App. 5 Cir. 12/16/20), 309 So.3d 838, 840. The party urging the exception of *res judicata* must present evidence proving its essential elements by a preponderance of the evidence. *State v. Johnson*, 19-422, (La. App. 5 Cir. 1/29/20), 290 So.3d 301, 304. The law is clear that evidence not properly and officially offered, introduced, and admitted into evidence cannot be considered, even though it is physically placed in the record. *Successions of Cotaya*, 24-39 (La. App. 5 Cir. 12/5/24), 409 So.3d 866, 871. Except for motions for summary judgment, documents attached to memoranda do not constitute evidence and cannot be considered. *Denoux v. Vessel Mgmt. Servs., Inc.*, 07-2143 (La. 5/21/08), 983 So.2d 84, 88.

On the showing made, we are unable to consider the merits of the relators' exceptions because no evidence was offered by the relators at the hearing to support its exception of *res judicata*.¹ Accordingly, we deny this writ application.

Gretna, Louisiana, this 9th day of March, 2026.

JJM
MEJ
SUS

¹ The peremptory exception of *res judicata* may be re-urged at any time prior to the submission of the case for decision on the merits. La. C.C.P. art. 928.

SUSAN M. CHEARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT

101 DERBIGNY STREET (70053)

POST OFFICE BOX 489

GRETNA, LOUISIANA 70054

www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400

(504) 376-1498 FAX

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 **03/09/2026** 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-90

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable Donald L. Foret (DISTRICT JUDGE)

Louis M. Grossman (Relator)
Timothy J. Falcon (Respondent)
Edward Paige Sensenbrenner (Respondent)
Jarrett S. Falcon (Respondent)

Michael R. Phillips (Relator)
Mark E. Best (Respondent)
Kelicia D. Raya (Relator)
Roland M. Vandenweghe, Jr. (Respondent)
Taylor E. Brett (Respondent)
Jeremiah A. Sprague (Respondent)

MAILED

Janika D. Polk (Respondent)
Attorney at Law
1615 Poydras Street
Suite 1300
New Orleans, LA 70112

Richard D. McConnell, Jr. (Relator)
Gregory M. McNally (Relator)
Attorney at Law
400 Convention Street
Suite 700
Baton Rouge, LA 70802

Brennan L. Falcon (Respondent)
Cameron J. Falcon (Respondent)
Jennifer L. Martin (Respondent)
Attorney at Law
5044 Lapalco Boulevard
Marrero, LA 70072

Valeria M. Sercovich (Respondent)
Attorney at Law
701 Poydras Street
Suite 4500
New Orleans, LA 70139

Michael A. Levatino, Jr. (Relator)
Richard S. Pabst (Relator)
Tyler M. Kostal (Relator)
Attorney at Law
909 Poydras Street
Suite 3600
New Orleans, LA 70112