

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

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No. 26-C-69

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LOUIS NOEL

*versus*

CHEVRON U.S.A. INC., ET AL

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IN RE EXXON MOBIL CORPORATION AND EXXONMOBIL OIL CORPORATION  
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT  
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE  
DONALD FORET, DIVISION "H", NUMBER 864-587

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TRUE COPY

February 25, 2026



LINDA TRAN  
DEPUTY CLERK

Panel composed of Judges Marc E. Johnson,  
Scott U. Schlegel, and Timothy S. Marcel

**WRIT DENIED**

In this case arising from a May 6, 2025 petition for damages filed against numerous defendants for lung cancer allegedly contracted as a result of workplace exposure to Naturally Occurring Radioactive Materials (“NORM”), defendants Exxon Mobil Corporation and ExxonMobil Oil Corporation (“ExxonMobil”) seek supervisory review of the trial court’s February 10, 2026 judgment denying ExxonMobil’s exception of *res judicata*. In their exception, ExxonMobil argued that Mr. Noel asserted and settled 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 exception. At the hearing of a peremptory exception, the exceptor bears the burden of proof. *State O/b/o T. J. & T. J. v. Johnson*, 20-154, p. 3 (La. App. 5 Cir. 12/16/20), 309 So.3d 838, 840, (citing *In re Med. Review Panel of Gerard Lindquist*, 18-444, p. 3 (La. App. 5 Cir. 5/23/19), 274 So.3d 750, 754.) It is incumbent upon the party urging the exception of *res judicata* to present evidence proving its essential elements by a preponderance of the evidence. *State v. Johnson*, 19-422, p. 4 (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. *Denoux v. Vessel Mgmt. Services, Inc.*, 07-2143 (La. 5/21/08), 983 So.2d 84, 88; *Successions of Cotaya*, 24-39 (La. App. 5 Cir. 12/5/24), 409 So.3d 866, 871. Documents attached to memoranda do not constitute evidence and cannot be considered [excluding motions for summary judgment]. *Denoux*, 983 So.2d at 88. Regardless of whether the lack of admission into evidence has been assigned as error, this Court may not consider evidence not properly offered and admitted. *See Walker on Behalf of Fried v. ACE Am. Ins. Corp.*, 20-449 (La. App. 5 Cir. 5/26/21), 325 So.3d 1129, 1136, *writ denied*, 21-914 (La. 10/19/21), 326 So.3d 886.

Because no evidence was offered by ExxonMobil at the hearing to support its exception of *res judicata*, on the showing made, we decline to exercise our supervisory jurisdiction or to consider the merits of relator's exception. 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. This writ is denied.

Gretna, Louisiana, this 25th day of February, 2026.

**SUS**  
**MEJ**  
**TSM**

SUSAN M. CHEHARDY  
CHIEF JUDGE

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

JUDGES



FIFTH CIRCUIT

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**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 **02/25/2026** 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-69**

**E-NOTIFIED**

24th Judicial District Court (Clerk)  
Honorable Donald L. Foret (DISTRICT JUDGE)  
Michael R. Phillips (Respondent)  
Mark E. Best (Respondent)  
Timothy J. Falcon (Respondent)  
Edward Paige Sensenbrenner (Relator)  
Louis M. Grossman (Respondent)

Martin A. Stern (Relator)  
Jeffrey E. Richardson (Relator)  
Jeremiah A. Sprague (Respondent)  
Richard S. Pabst (Respondent)  
Jarrett S. Falcon (Respondent)  
Roland M. Vandenweghe, Jr. (Relator)  
Tyler M. Kostal (Respondent)  
Taylor E. Brett (Relator)

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