

**STATE OF LOUISIANA**  
**COURT OF APPEAL, FIRST CIRCUIT**

TERRALD C. GREEN

NO. 2018 CW 1244

VERSUS

CHURCH MUTUAL INSURANCE  
COMPANY AND BRAD COLLINS

**OCT 29 2018**

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In Re: Church Mutual Insurance Company and Brad Collins,  
applying for supervisory writs, 23rd Judicial District  
Court, Parish of Ascension, No. 111196.

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**BEFORE: GUIDRY, THERIOT, AND PENZATO, JJ.**

**WRIT DENIED.** The criteria set forth in **Herlitz Const. Co. v. Hotel Investors of New Iberia, Inc.**, 396 So.2d 878 (La. 1981) (per curiam) are not met.

**AHP**

**JMG**

**Theriot, J.** dissents and would grant the writ. Plaintiff, Terrald C. Green, as the party challenging the admissibility of the expert witness, had the burden of proving that the **Daubert** factors were not met. See **Robertson v. Doug Ashy Building Materials, Inc.**, 2010-1552 (La. App. 1st Cir. 10/4/11), 77 So.3d 339, 359, writs denied, 2011-2468, 2430 (La. 1/13/12), 77 So.3d 972, 973. I find that plaintiff did not carry this burden. Therefore, I would reverse the trial court's July 30, 2018 judgment granting plaintiff's motion in limine excluding the testimony of Dr. Joseph Cormier, and would deny same.

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DEPUTY CLERK OF COURT  
FOR THE COURT