

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

GUSTAVE J. LABARRE, JR., ET
AL.

NO. 2021 CW 1015

VERSUS

OCCIDENTAL CHEMICAL COMPANY,
ET AL.

DECEMBER 20, 2021

In Re: Texas Brine, LLC, applying for supervisory writs, 23rd
Judicial District Court, Parish of Assumption, No.
33796.

BEFORE: HOLDRIDGE, PENZATO, AND HESTER, JJ.

WRIT GRANTED. The burden of proving the facts essential to support the objection of res judicata is on the party pleading the objection. If any doubt exists as to the application of res judicata, the objection must be overruled and the second lawsuit maintained. **Landry v. Town of Livingston Police Dept.**, 2010-0673 (La. App. 1st Cir. 12/22/10), 54 So.3d 772, 776. Because the cornerstone of res judicata is a valid and final judgment, it was incumbent on Zurich American Insurance Company, Steadfast Insurance Company, and American Guarantee & Liability Insurance Company, LLC (collectively Zurich) to introduce a valid final judgment into the record. Our review of the trial transcript shows that neither party offered, filed, or introduced any evidence into the record at the hearing on Zurich's exception of res judicata. Without the final judgment in evidence, Zurich could not meet its burden of proof on the exception. We therefore grant this writ application, reverse the trial court's July 19, 2021 ruling sustaining Zurich's exception of res judicata and deny same.

**GH
AHP
CHH**

COURT OF APPEAL, FIRST CIRCUIT



DEPUTY CLERK OF COURT
FOR THE COURT