

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

BRYAN GIBBS, BRANDON GIBBS,
AND TRENEKA YOUNG

NO. 2015 CW 0867

VERSUS

THE HANOVER INSURANCE
COMPANY, JIM CAREY
DISTRIBUTING COMPANY AND
JODY WALKER

OCT 02 2015

In Re: Jim Carey Distributing Company and The Hanover Insurance Company, applying for supervisory writs, 21st Judicial District Court, Parish of Tangipahoa, No. 2011-0004151.

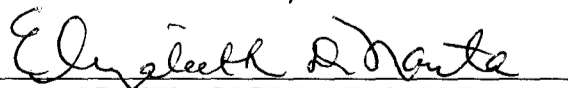
BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

WRIT DENIED. In order to seek introduction of prior claims evidence, there must be a showing that the other accidents/claims were false or fraudulent or occurred under such highly suspicious circumstances that fraud may be inferred. See **Maldonado v. Kiewit Louisiana Co.**, 2012-1868 (La. App. 1 Cir. 5/30/14), 152 So.3d 909, 925-926, writ denied, 2014-2246 (La. 1/16/15), 157 So.3d 1129; **Daigle v. Coastal Marine, Inc.**, 482 So.2d 749, 750-751 (La. App. 1st Cir. 1985), writ granted and rev'd in part on other grounds, 488 So.2d 679 (La. 1986) (citing McCormick's Handbook of Law of Evidence, § 196, pp. 466-467 (2d ed. 1972)).

GH
WRC

Guidry, J., dissents and would grant the writ, reversing that portion of the April 13, 2015 order denying defendants' motion in limine as to evidence of other claims. When there is evidence of repeated prior claims of a similar nature, the evidence may be relevant to show that plaintiffs have exceeded their likely chances of repeated, accidental injury of the same kind. In such a situation, the evidence may be admitted if the proponent produces other evidence of fraud. See **Williamson v. Haynes Best Western of Alexandria**, 95-1725 (La. App. 4 Cir. 1/29/97), 688 So.2d 1201, writ denied, 97-1145 (La. 6/20/97), 695 So.2d 1355. Here, defendants presented substantial evidence of fraudulent acts committed by plaintiffs in this matter. Under the unique circumstances of this case, I believe the probative value of the evidence greatly outweighs the potential prejudicial effect; thus, the evidence is admissible. La. C.E. art. 402, 403, 404(B)(1). I believe the trial court abused its discretion, therefore, in limiting admission of plaintiffs' prior accidents and claims made in connection therewith.

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FOR THE COURT