

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

BAMBI COOK AND CHRISTOPHER  
COOK, INDIVIDUALLY AND ON  
BEHALF OF THEIR MINOR  
CHILDREN, MARY E. COOK AND  
BRODY J. COOK

NO. 2015 CW 1428

VERSUS

KIRIN SUSHI, LLC AND ABC  
INSURANCE COMPANY

**DEC 07 2015**

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In Re: Kirin Sushi, LLC, applying for supervisory writs, 21st  
Judicial District Court, Parish of Tangipahoa, No.  
2013-3594.

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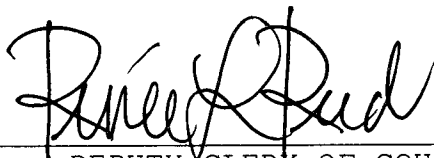
**BEFORE: PETTIGREW, HIGGINBOTHAM AND CRAIN, JJ.**

**WRIT DENIED.**

**JTP**  
**TMH**

**Crain, J.**, dissents and would grant the writ application. I find that the plaintiffs presented no evidence to suggest that Kirin Sushi, L.L.C. either created the spill or had actual notice of the substance on the floor. Furthermore, Kirin demonstrated that the plaintiffs will be unable to satisfy at trial their burden of proving that the liquid had been on the floor for such a period of time that Kirin should have discovered its existence. See **Williams v. Shoney's Inc.**, 1999-0607 (La. App. 1st Cir. 3/31/00), 764 So.2d 1021, 1024-25. Therefore, no genuine issue of material fact exists as to whether Kirin created or had actual or constructive notice of the existence of the substance of its floor or how long such substance had been on the floor before the subject incident, and Kirin Sushi L.L.C. is entitled to judgment as a matter of law.

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FOR THE COURT