

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

LEONARD BROWN

NO. 2017 CW 0813

VERSUS

MELVIN L. "KIP" HOLDEN, IN  
HIS CAPACITY AS THE MAYOR  
PRESIDENT, FOR THE CITY OF  
BATON ROUGE, CARL DABADIE,  
JR., IN HIS CAPACITY AS  
"CHIEF OF POLICE FOR THE  
CITY OF BATON ROUGE POLICE  
DEPARTMENT", CITY OF BATON  
ROUGE POLICE DEPARTEMENT... P18

OCT 20 2017

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In Re: Officer Lonald Valdry, applying for supervisory writs,  
19th Judicial District Court, Parish of East Baton  
Rouge, No. 626,828.

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**BEFORE: WHIPPLE, C.J., GUIDRY, McDONALD, CRAIN AND CHUTZ, JJ.**

**WRIT GRANTED.** After a *de novo* review, we find that plaintiff, Leonard Brown, should have sought his claims for damages against Officer Lonald Valdry in the suit entitled "Leonard Brown v. Officer Lonald Valdry, case No. 12-11247-C, Baton Rouge City Court," as the claims asserted in the current matter arose out of the subject matter of the prior suit. **N. Am. Treatment Sys., Inc. v. Scottsdale Ins. Co.**, 2005-0081 (La. App. 1st Cir. 8/23/06), 943 So.2d 429, 440, writs denied, 2006-2918 (La. 2/16/07), 949 So.2d 423 & 2006-2803 (La. 2/16/07), 949 So.2d 424. Further, plaintiff was aware of the emotional, mental, and physical anguish he suffered as a result of the incidents at the time the prior suit was pending. **Henkelmann v. Whiskey Island Preserve, LLC**, 2013-0180 (La. App. 1st Cir. 5/15/14), 145 So.3d 465, 470. Additionally, we note that plaintiff does not allege that his claim for damages exceeds the jurisdictional amount of the Baton Rouge City Court. See La. Code Civ. P. art. 4843(G). Accordingly, the March 6, 2017 judgment overruling Officer Lonald Valdry's objection raising the peremptory exception of *res judicata* is sustained. The claims asserted by plaintiff, Leonard Brown, against defendant Officer Lonald Valdry, in this case are dismissed, with prejudice.

JMM  
WJC  
WRC  
JMG

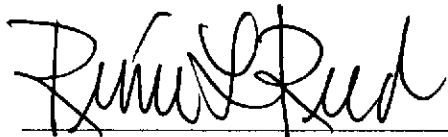
**Whipple, C.J.**, dissents and would deny the writ application. Contrary to the majority, I find that plaintiff, Leonard Brown, cannot be precluded from seeking damages under the application of the doctrine of *res judicata* where, as here, the offending conduct giving rise to the instant suit for damages, at least in part, had not even occurred when the

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plaintiff filed the petition for injunctive relief. Moreover, the discretion given to courts to grant relief from a judgment on the basis of exceptional circumstances allows the courts to balance the principle of *res judicata* with the interests of justice, which is applied on a case-by-case basis, and to account for particular or exceptional circumstances, see La. R.S. 13:4232, Comment-1990, including situations in which litigants were deprived of the opportunity to present such claims due to factual situations that were not or could not be anticipated by the parties, or to decisions beyond the control of the parties. See David v. J.R. Loggin, Inc., 2013-0568 (La. App. 1st Cir. 11/8/13), 136 So.3d 828, 831-32, writ denied, 2014-0860 (La. 6/20/14), 141 So.3d 812. Accordingly, I find that the factual situation presented in the instant case presents such circumstances, and, thus, the trial court correctly exercised its discretion in denying the objection by defendant, Officer Donald Valdry, raising the peremptory exception of *res judicata*.

COURT OF APPEAL, FIRST CIRCUIT



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