

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

SEAN MICHAEL BREEN

NO. 2018 CW 1322

VERSUS

KACIE MAGEE BREEN AND ABC
INSURANCE COMPANY

DEC 26 2018

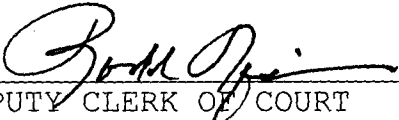
In Re: Kacie Magee Breen, applying for supervisory writs,
22nd Judicial District Court, Parish of St. Tammany,
No. 2015-11809.

BEFORE: GUIDRY, THERIOT, AND PENZATO, JJ.

WRIT GRANTED WITH ORDER. The trial court's August 20, 2018 order denying the request for a hearing on the exception of res judicata filed by defendant, Kacie Breen, is vacated. La. Code Civ. P. art. 929(B) provides that if a peremptory exception is filed after the answer but at or prior to trial of the case, it shall be tried and disposed of either in advance of or on the trial of the case. Moreover, a peremptory exception can be re-urged at any time in the proceedings. See **Gettys v. Wong**, 2013-1138 (La. App. 4th Cir. 5/7/14), 145 So.3d 460, 463, writ denied, 2014-1178 (La. 9/19/14), 149 So.3d 247. This matter is remanded to the trial court with instructions to conduct an evidentiary hearing on the exception of res judicata.

JMG
MRT
AHP

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT