

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

FRANK CUSHENBERRY AND ROBIN  
CUSHENBERRY, INDIVIDUALLY  
AND ON BEHALF OF THE MINOR  
CHILDREN, NOAH CUSHENBERRY  
AND KHLOE CUSHENBERRY

NO. 2020 CW 1222

VERSUS

JOHNNY SCOTT AND BARBER  
BROTHERS CONTRACTING  
COMPANY, LLC

CONSOLIDATED WITH

BARBER BROTHERS CONTRACTING  
COMPANY, LLC

VERSUS

CAPITOL CITY PRODUCE  
COMPANY, LLC, FRANK  
CUSHENBERRY, AND XYZ  
INSURANCE COMPANY

**DECEMBER 30, 2020**

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In Re: Johnny Scott and Barber Brothers Contracting Company,  
LLC, applying for supervisory writs, 19th Judicial  
District Court, Parish of East Baton Rouge, No. 674957  
c/w 672217.

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**BEFORE: GUIDRY, McCLENDON, AND LANIER, JJ.**

**WRIT DENIED.** The criteria set forth in **Herlitz  
Construction Co., Inc. v. Hotel Investors of New Iberia, Inc.**,  
396 So.2d 878 (La. 1981) (per curiam) are not met.

JMG  
PMc  
WIL

COURT OF APPEAL, FIRST CIRCUIT



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DEPUTY CLERK OF COURT  
FOR THE COURT