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**SUPREME COURT OF LOUISIANA**

**No. 2010-C-2637**

**MALCOLM THOMAS**

**vs.**

**RANDALL HODGES**

**AND**

**STATE FARM MUTUAL  
AUTOMOBILE INSURANCE CO.**

**ON SUPERVISORY WRIT OF REVIEW TO THE COURT OF  
APPEAL FIRST CIRCUIT, PARISH OF EAST FELICIANA**

**JOHNSON, J., would grant the writ application and assigns reasons:**

Even though summary judgment is now favored, it is not appropriate for judicial determination of subjective facts, such as motive, intent, good faith, or knowledge that calls for credibility evaluations and the weighing of testimony. *Tillman v. Eldridge*, 17 So. 3d 69 (La. Ct. App. 2d Cir. 2009). The case at bar involves conflicting testimony from the same witnesses. Recanted testimony can serve as the basis for a judgment. It can also serve as a fact in dispute, and it should not be weighed against other testimony from the same witness as this calls for a credibility determination. Considering the fact that several of the witnesses, who are, coincidentally, either close relatives or friends of the defendant, have recanted their testimony that is crucial to a determination of liability in this case, in my view, summary judgment is not appropriate.