

SUPREME COURT OF LOUISIANA

No. 2019-CC-0013

PHILLIP JAMES

VERSUS

ST. MARTIN PARISH GOVERNMENT, ET AL.

**ON SUPERVISORY WRITS TO THE 16TH JUDICIAL DISTRICT
COURT FOR THE PARISH OF ST. MARTIN**

CRICHTON, J., would grant and assigns reasons:

In this parking lot trip and fall case, St. Martin Parish Government asserts that the district court erred in denying summary judgment where plaintiff failed to show actual or constructive notice. The district court held that there was sufficient evidence to negate summary judgment because the library parking lot bumper was defective with mold, and thus there was no genuine issue of material fact as to whether there was an open and obvious defect. Not only did such ruling rely on the district court’s own perception of mold on the bumper, which plaintiff did not assert and of which plaintiff did not produce evidence, but such reliance appears to have implicitly circumvented the requirement that plaintiff show actual or constructive notice pursuant to La. R.S. 9:2800. Considering the requisites of La. R.S. 9:2800, I would grant this writ application and assign the case for briefing, permitting the parties an opportunity to request oral argument, pursuant to La. Code Civ. P. art. 966(H).