

4/3/01

SUPREME COURT OF LOUISIANA

No. 00-CA-1528

ROBERT BOURGEOIS ET AL.

Versus

A.P. GREEN INDUSTRIES, INC., ET AL.

LEMMON, J., Subscribing to the Opinion and Assigning Additional Reasons

True interpretive legislation occurs when the Legislature, upon realizing that a previously enacted law contains an ambiguity or an error, amends the prior law to correct the ambiguity or error before the law has been judicially interpreted.¹ However, after the judicial branch performs its constitutional function of interpreting a law, and the Legislature disagrees with that interpretation, a new legislative enactment is a substantive change in the law and is not an interpretive law, because the original law, as interpreted by the judicial branch, no longer applies.²

¹As the majority notes, a basic tenet in constitutional separation of powers, since the decision in Marbury v. Madison, 1 Cranch 137, 1772 L.Ed. 60, 73 (1803), is that interpretation of laws is emphatically a judicial branch function.

²"The usual purpose of a special interpretive statute is to correct a judicial interpretation of a prior law which the legislature considers inaccurate. When such statutes are given any effect, the effect is prospective only. Any other result would make the legislature a court of last resort. . . ." 1A Norman J. Singer, Sutherland Statutory Construction §27.04 (5th ed. 1993).