

**SUPREME COURT OF LOUISIANA**

**No. 04-C-1503**

**JOHN RANDAZZO**

**v.**

**STATE OF LOUISIANA, LOUISIANA STATE UNIVERSITY HEALTH SCIENCES CENTER, HEALTH CARE SERVICES DIVISION, EARL K. LONG MEDICAL CENTER, CHAPMAN LEE, M.D., RICHARD HODGES, M.D. AND LANE MOORE, M.D.**

KNOLL, Justice, concurring

I find the result reached in this case extremely inequitable and harsh to Randazzo, which prompts this concurrence. The viability of this case hinges on prescription, which is purely a legislative prerogative. We are bound to apply the law as written by the legislature.

“Statutes of limitation are exclusively a legislative prerogative.” *Crier v. Whitecloud*, 496 So.2d 305, 310 (La. 1986). The Legislature does not eliminate the remedy of a civil wrong in setting a statute of limitation, but rather makes a legislative determination that after a certain period of time no cause of action can arise. *Id.* While some state legislatures have carved out an express discovery rule exception for foreign objects,<sup>1</sup> the Louisiana legislature has not done so. *In re Medical Review Panel for Claim of Moses*, 00-2634 (La. 5/25/01), 788 So.2d 1173. This case serves to demonstrate to the Legislature the harshness of not providing an exception for foreign objects, which they may want to reconsider.

Thus, I am constrained to find that “however harsh the application of La. Rev.

---

<sup>1</sup> This “foreign object” exception is provided by statute in Arkansas, *see* Ark. Code Ann. § 16-114-203(b) (Michie 2004), Georgia, *see* Ga. Code Ann. § 9-3-72 (2004), Idaho, *see* Idaho Code Ann. § 5-219 (Michie 2004), Maine, *see* Me. Rev. Stat. Ann. tit. 24, § 2902 (West 2004), Missouri, *see* Mo. Rev. Stat. Ann. § 516.105(1) (2004), New York, *see* N.Y. Civ. Prac. L. & R. § 214-a (2004), the Virgin Islands, *see* 27 V.I. Code Ann. § 166d (2004), and Virginia, *see* Va. Code Ann. § 8.01-243 (Michie 2004).

Stat. Ann. § 9:5628, mincing words and linguistic gymnastics should not be utilized to disregard the statutory language. Rather, litigants should seek redress from the Legislature to change the law.” *Williams v. Jackson Parish Hosp.*, 00-3170, pp. 2-4 (La. 10/16/01), 798 So.2d 921, 936 (Knoll, J., dissenting).