

04/09/2010 "See News Release 026 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

No. 09-C-2792

LINDA TORRES

VERSUS

LOUISIANA SHRIMP AND PACKING COMPANY

**ON APPLICATION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEAL
FIRST CIRCUIT, PARISH OF EAST BATON ROUGE**

O R D E R

WRIT GRANTED. It is not disputed by the parties that a timely filed tort suit interrupts the running of prescription on a workers' compensation claim. *Isaac v. Lathan*, 01-2639, pp. 4-6 (La.App. 1 Cir. 11/8/02), 836 So.2d 191, 194-95. In this case, the tort suit filed by the relator against the respondent was dismissed by judgment of the trial court after the withdrawal of the respondent's prescription exception. When a party withdraws a plea of prescription in the trial court, he thereby renounces the prescription originally pleaded and, having thus abandoned it, may not thereafter re-urge it. *Foster v. Breaux*, 263 La. 1112, 270 So.2d 526, 529 (1972). Accordingly, the timely tort suit interrupted the running of the prescriptive period for filing relator's workers' compensation claim. Moreover, having abandoned the prescription objection to the timeliness of the tort suit, respondent may not now re-urge it. Therefore, the ruling by the trial court granting respondent's exception of prescription, and the court of appeal decision affirming the ruling, are reversed. The case is remanded to the office of workers' compensation for further proceedings consistent with the views expressed herein.

