

04/02/2015 "See News Release 016 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 14-C-2663

CADLEROCK JOINT VENTURES CO., INC.

VERSUS

**J. GRAVES SCAFFOLDING CO., INC.,
J.W. GRAVES ENTERPRISES, INC., BRIAN E BRISTOW,
HOLLY BRISTOW, MICHAEL M. ALLEN,
EDDIE T. SCOTT, KAREN P. SCOTT, JOHN GLEN TYLER
AND DORIS L. TYLER**

*ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, SECOND CIRCUIT,
PARISH OF BOSSIER*

WEIMER, J., dissenting.

I would grant and docket this matter to address the conflict in the circuits¹ as a result of the decisions in this case and in **Gulf National LLC v. Alfortish Inc.**, 05-804 (La.App. 5 Cir. 3/14/06), 926 So.2d 676, writ not cons., 06-0879 (La. 6/2/06), 929 So.2d 1241. These cases address the impact that the clerk of court's continued custody of a collateral mortgage note and hand notes has on the running of prescription on these notes. See Ealer v. McAllister, 14 La. Ann. 821 (La. 1859) (Merrick, C.J., concurring).²

¹ See Supreme Court Rule X, § 1(a)(1) (citing conflicting appellate court decisions as a factor favoring a writ grant).

² In his concurrence in **Ealer**, Chief Justice Merrick recognized:

[T]he Clerk is but the simple custodian of the papers filed in a cause; as he has no control over them; as he cannot sell them, pledge them, use them in any way, or even suffer them to be taken from the files, without an order of the Judge, he has, in no legal sense, the possession of them. They are in the possession of the law, *in gremio legis*.