

SUPREME COURT OF LOUISIANA

No. 96-CA-0895

CAMERON PARISH SCHOOL BOARD

Versus

ACANDS, INC. ET AL

LEMMON, J., Dissenting

The legislative purpose of La. Rev. Stat. 9:5644, by its terms, appears clear to me. That purpose was to make any prescriptive period, which would otherwise be applicable to bar an action for recovery of asbestos treatment work, inapplicable until five years from the later of the completion of the work or the discovery of the identity of the manufacturer. The intent of the words "apply or expire" in Subsection 5644B was:

1. Any prescriptive period that has already run does not apply, and the minimum five-year prescriptive period established by Subsection 5644B controls; and
2. Any prescriptive period that has not already run does not expire until, at earliest, the end of the five-year prescriptive period established by Subsection 5644B.¹

Moreover, in those cases in which five years had already elapsed from the completion of the abatement work and the discovery of the identity of the manufacturer before Section 5644 became effective, Subsection 5644C provided an additional one year to file suit. In this latter situation, it is obvious that both the five-year prescriptive period of Section 5644 and any shorter prescriptive period had already run, and the

¹I also disagree that the Legislature intended to shorten any unexpired prescriptive periods that are more than five years, which the majority postulates as an explanation of Subsection 5644C's additional one-year period.

Legislature clearly intended to revive this prescribed cause of action.

I would therefore proceed to address the difficult constitutional issue.