

# SUPREME COURT OF LOUISIANA

*No. 96-CC-3094*

THE STATE OF LOUISIANA, WILLIAM KIMBALL, H.M. KIMBALL, AND  
ELIZABETH KIMBALL LEWIS, INDIVIDUALLY AND AS  
REPRESENTATIVES OF A CLASS OF THOSE SIMILARLY SITUATED

Versus

SPRINT COMMUNICATIONS COMPANY, L.P., ET AL

LEMMON, J., Concurring

Inasmuch as La. Code Civ. Proc. art. 253.1 by its terms only requires the random allotment of the initial petition,<sup>1</sup> the challenge to the interdivisional transfer in this case is not controlled by Article 253.1 as it read at the time of the transfer. However, after the argument in this case, the Legislature adopted La. Acts 1997, No. 968, which enacted La. Code Civ. Proc. art. 253.2 to prohibit the transfer of a randomly allotted case from one division to another within the same court unless agreed to by all parties.<sup>2</sup> Whether or not Act 968 can be applied to invalidate this transfer, it would be an exercise in futility to reach any decision in this case contrary to the majority's result.

I therefore concur in the judgment.

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<sup>1</sup>Article 253.1 refers to "all pleadings," but answers, exceptions and motions after the initial petition obviously are not randomly allotted.

<sup>2</sup>Article 253.2 contains another exception for transfers to effect a consolidation under La. Code Civ. Proc. art. 1561, which was amended by La. Acts 1997, No. 968.