

09/06/2016 "See News Release 043 for any Concurrences and/or Dissents."

SUPREME COURT OF LOUISIANA

NO. 2016-C-0908

FRANCESCA M. LAPUYADE

VERSUS RAWBAR INC., D/B/A ACME OYSTER HOUSE

CONSOLIDATED WITH

NO. 2016-C-0916

FRANCESCA M. LAPUYADE

VERSUS RAWBAR INC., D/B/A ACME OYSTER HOUSE

CONSOLIDATED WITH

NO. 2016-C-0917

FRANCESCA M. LAPUYADE

VERSUS RAWBAR INC., D/B/A ACME OYSTER HOUSE

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FIFTH CIRCUIT, PARISH OF JEFFERSON**

CRICHTON, J., would grant with order and assigns reasons:

I would grant this application and reinstate the trial court's judgment sustaining the exception of prescription. Delictual actions are subject to a liberative prescription of one year. La. C.C. art. 3492. But under the doctrine of *contra non valentem*, in exceptional circumstances this prescriptive period may be suspended. This includes "where the cause of action is neither known nor reasonably knowable by the plaintiff even though plaintiff's ignorance is not induced by the defendant." *Marin v. Exxon Mobil Corp.*, 2009-2368, p. 12 (La. 10/19/10); 48 So.3d 234, 245. In my view, this plaintiff's claim that her attorney acted negligently in not investigating all possible defendants is not a justification for the use of the doctrine of *contra non valentem*.