

**VICKIE HERNANDEZ
VERSUS
STATE OF LOUISIANA,
THROUGH THE
DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

*** NO. 2002-CA-0162
* COURT OF APPEAL
* FOURTH CIRCUIT
STATE OF LOUISIANA**

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CONSOLIDATED WITH:

**JUDE E. BAILEY AND
ARTHUR BAILEY
VERSUS
STATE OF LOUISIANA,
THROUGH THE
DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT**

CONSOLIDATED WITH:

NO. 2002-CA-0163

**APPEAL FROM
ST. BERNARD 34TH JUDICIAL DISTRICT COURT
NOS. 84-673 C/W 87-024 DIVISION "C"
Honorable Wayne Cresap, Judge**

*** * * * ***

Judge Steven R. Plotkin

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(Court composed of Chief Judge William H. Byrnes, III, Judge Joan Bernard Armstrong, Judge Steven R. Plotkin, Judge Charles R. Jones, Judge Miriam G. Waltzer, Judge Patricia Rivet Murray, Judge James F. McKay, III, Judge Dennis R. Bagneris, Sr., Judge Michael E. Kirby, Judge Terri F. Love, Judge Max N. Tobias, Jr.)

(ON APPLICATION FOR REHEARING EN BANC)

(ARMSTRONG, J., CONCURS IN THE RESULT)

(MURRAY, J., CONCURS WITH REASONS)

(KIRBY, J., CONCURS FOR THE REASONS ASSIGNED BY JUDGE MURRAY)

(BYRNES, C.J., DISSENTS IN PART AND CONCURS IN PART)

**(JONES, J., DISSENTS IN PART AND CONCURS IN PART FOR
THE REASONS ASSIGNED BY CHIEF JUDGE BYRNES AND
JUDGE LOVE)**

(MCKAY, J., DISSENTS)

**(BAGNERIS, J., CONCURS WITH BYRNES, C.J., DISSENTS IN
PART AND CONCURS IN PART)**

(LOVE, J., DISSENTS IN PART AND CONCURS IN PART)

Glenn E. Diaz
Carlos Zelaya
David C. Vidrine
2200 Jackson Boulevard
Chalmette, LA 70043

-and-

Robert J. Klees
Of Counsel
4620 E. St. Bernard Highway
Mereaux, Louisiana 70075

**COUNSEL FOR PLAINTIFF/APPELLEE, VICKIE
HERNANDEZ**

Eric A. Bopp
Walter R. Woodruff
EDWARD S. BOPP-LAW CORPORATION
6725 St. Claude Avenue
Suite 102
Arabi, LA 70032

**COUNSEL FOR PLAINTIFFS/APPELLEES, JUDE AND
ARTHUR BAILEY**

Richard P. Ieyoub
Attorney General
Anthony J. Angelette, Jr.
E. John Litchfield
Special Assistant Attorney General
2310 Metairie Road
Metairie, LA 70001

COUNSEL FOR DEFENDANT/APPELLANT, STATE OF

**LOUISIANA, THROUGH THE DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT**

AFFIRMED

This Court granted an En Banc rehearing to Vickie Hernandez, but did not grant an En Banc rehearing to Jude and Arthur Bailey.

On rehearing, a majority of the Court voted to affirm the panel decision and to deny rehearing for reasons stated in the original opinion, or concur.

In addition, the majority adopts, in part, the reasoning and holding in Angelo v. Ales, (La.App.1 cir. 12/22/94), 649 So.2d 1042.

AFFIRMED