

**ROBERT B. KEATY, THOMAS
S. KEATY AND KEATY AND
KEATY**

*

NO. 2000-CA-0221

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COURT OF APPEAL

VERSUS

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FOURTH CIRCUIT

ROY A. RASPANTI

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STATE OF LOUISIANA

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JUDGE LOVE, DISSENTING

I respectfully dissent.

The majority adopts one year as the liberative prescriptive period for requesting sanctions pursuant to La. C.C.P. article 863. Our statutory law establishes no such formal period of time. A motion for sanctions is not a tort action, with a mandatory prescriptive period. Until the legislature decides to provide specific guidance or set a time period for the filing of motions for sanctions, the question of when a motion for sanctions should be filed and served is best decided on a case by case basis.

In the instant case, the motion for sanctions was filed June, 1997, almost six years from the date of the filing of the action which the motion sought to deter. (Deterrence being the *purpose* of Article 863). In my opinion, the trial court was therefore, correct in finding the action was not

filed within a reasonable period of time.

Furthermore, no reasons were presented which dictate a finding that the trial court abused its discretion in granting the exception of prescription.

I would affirm the trial court.