

**A. REMY FRANSEN, JR. AND
ALLAIN F. HARDIN**

VERSUS

**THE CITY OF NEW
ORLEANS, ET AL.**

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NO. 2002-CA-2384

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COURT OF APPEAL

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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CANNIZZARO, J. DISSENTS WITH REASONS

I respectfully dissent. The majority bases its decision on the provisions of La. R.S. 47:2110(A) but neglects to mention La. R.S. 47:2110 (B), which provides in relevant part as follows:

The right to sue for recovery of a tax paid under protest as provided herein shall afford a legal remedy and right of action at law . . . for a full and complete adjudication of any and all questions arising in the enforcement of such right respecting the legality of any tax accrued or accruing or the method of enforcement thereof.

(Emphasis added.)

La. R.S. 47:2110(A), which provides for a thirty day prescriptive period must be read in conjunction with La. R.S. 47:2110(B). See, e.g., Hollingsworth v. City of Minden, 2001-2658 (La. 6/21/02), 828 So.2d 514, where the Louisiana Supreme Court stated that “courts are bound to give

effect to all parts of a statute and cannot give a statute an interpretation that makes any part superfluous or meaningless, if that result can be avoided.” 2001-2568, p. 5, 828 So.2d at 517 (citing Langlois v. East Baton Rouge Parish School Board, 99-2007 (La. 5/16/00), 761 So.2d 504). When La. R.S. 47:2110(A) is read with La. R.S. 47:2110(B), it is clear that the thirty day prescriptive period applies not only to suits to recover taxes paid under protest but also to suits related to the method of enforcement of tax payments.

Applying the rule of statutory construction set forth above, it is clear that the phrase “or the method of enforcement thereof” must be given meaning and must be read within the context of the entire statutory scheme of which it is a part. When this is done, the thirty day prescriptive period in La. R.S. 47:2110(A) must be applied to the provisions of La. R.S. 47:2110 (B). Therefore, I respectfully dissent from the majority opinion, because the taxpayers in this case did not timely file their suit to recover the payments made in connection with the enforcement of the tax statutes. The claims of the taxpayers have prescribed, and the decision of the trial court should be affirmed.