

ERIN ELIZABETH BOH

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NO. 2003-C-1211

VERSUS

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COURT OF APPEAL

**JAMES INDUSTRIAL
CONTRACTORS, ET AL.**

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FOURTH CIRCUIT

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STATE OF LOUISIANA

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TOBIAS, J., CONCURS AND ASSIGNS REASONS.

I respectfully concur. I agree with the majority. As a matter of technical law, La. C.C.P. arts. 253.2 and 1561 require a reversal of the trial court's decision. Court rules are superseded by statute, except in those rare cases where certain matters clearly fall within the purview of Louisiana's constitutional provisions that leave such matters to the regulation by the courts, not the legislature.

In a case such as the one at bar, our law should permit a trial court, in its discretion, to consolidate related cases for discovery purposes only. Our decision in the case at bar relegates the matter of consolidation for discovery to legislative directive. For the present, use of discovery between these multiple cases will have to be handled by agreement of the parties, subject to court regulation under La. C.C.P. art. 1420B.