

9/25/01

**SUPREME COURT OF LOUISIANA**

**No. 01-CC-2498**

**GLORIA SCOTT, ET AL.**

**Versus**

**THE AMERICAN TOBACCO COMPANY, ET AL.**

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
FOURTH CIRCUIT, PARISH OF ORLEANS**

JOHNSON, J., dissenting.

I would deny this writ application. In the past, we have respected the vast discretion exercised by district trial judges in the course of jury selection. We have depended on them to see prospective jurors, listen to their answers, and make determinations as to whether jurors could be fair.

The defendants describe this litigation to provide medical monitoring programs for smokers and former smokers as “the largest class action in Louisiana history.” They argue that a different set of rules should apply because of the potential for money damages.

I disagree. We still must rely on trial judges, not cold transcripts, for making credibility determinations.

Moreover, I believe that it is completely unrealistic to attempt to draw a bright line based on the potential for bias when, in fact, the class is so broad. When you look at the parameters of the class, every citizen in Louisiana, including judges, are potential members of the class, as virtually everyone is connected in some fashion to a smoker or former smoker.