

9/18/01

SUPREME COURT OF LOUISIANA

No. 01-CC-0175

CLECO CORPORATION

versus

LEONARD JOHNSON AND LEGION INDEMNITY COMPANY

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FIRST CIRCUIT, PARISH OF ST. TAMMANY

KIMBALL, J., concurring

Although I agree with the decision reached by the majority in this case, I write separately to point out its effect upon claims by an electric company's customer against a tortfeasor for his act that disrupts power and in turn physically damages property in the customer's home. Previously, some Louisiana courts have treated these as claims for negligent interference with contract. *See, e.g., Community Coffee Co. v. Tri-Parish Constr. & Materials Inc.*, 490 So.2d 1109 (La. App. 1 Cir. 1986); *Desormeaux v. Central Indus., Inc.*, 333 So.2d 431 (La. App. 3 Cir. 1976). The claims were therefore systematically barred under the rule against claims for tortious interference with contract that was set forth in *Forcum-James Co. v. Duke Transp. Co.*, 93 So.2d 228 (La. 1957). That rule prevented recovery by customers who might otherwise recover if our traditional duty-risk analysis were applied to the claim instead. The majority today has chosen to handle these claims on a case by case basis using the duty-risk analysis, which in my view is the preferable approach.