

9/25/01

**SUPREME COURT OF LOUISIANA
NO. 01-CC-2498**

GLORIA SCOTT, ET AL.

V.

THE AMERICAN TOBACCO COMPANY, ET AL.

KNOLL, JUSTICE, concurring in part and dissenting in part.

For the following reasons, I respectfully concur in part and dissent in part.

The inherent weakness in the plurality opinion of the court fails to recognize the low threshold for challenging a juror for cause under LA. CODE CIV. PROC. art. 1765(3). Only a reasonable belief that an immediate family relationship to a party litigant might influence the juror is required, not actual bias. Although the statute does not specifically exclude these close family members, clearly the burden to exclude the family member of a party litigant from the jury is so low that this type of juror should easily be challenged for cause. Indeed, this court does not know of one case where a parent, sibling or spouse sat on a jury in a trial of another close family member, nor have plaintiffs cited any cases allowing such.

In my view, it is an absurdity to allow an immediate family member to sit on the jury in a trial of another close family member when the challenge has been made to excuse this juror for cause based on this relationship. Common sense dictates this conclusion. Indeed, this basic rationale and conclusion is so fundamental to our jury system, it hardly needs explanation. The party litigants are entitled to be tried by a jury composed of their peers and not a jury composed of their close family members, lest we have a mockery of the trial by jury system.

I concur only to the extent that seven of the twelve challenged immediate family jurors were excused for cause. In all other respects, I strongly and respectfully

dissent.