

The Supreme Court of the State of Louisiana

KAYLA LANDRY

No. 2022-C-00929

VS.

STATE FARM AUTOMOBILE INSURANCE
COMPANY, ET AL.

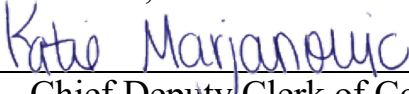
IN RE: State Farm Mutual Automobile Insurance Company - Applicant Defendant;
Brad Racca - Applicant Defendant; Grant Racca - Applicant Defendant; Kendal
Henry - Applicant Defendant; Applying For Writ Of Certiorari, Parish of Jefferson
Davis, 31st Judicial District Court Number(s) C-327-18, Court of Appeal, Third
Circuit, Number(s) 21-790;

October 04, 2022

Writ application granted in part. See per curiam.

PDG
JLW
SJC
JTG
JBM

Hughes, J., would deny.
Crain, J., dissents and would reinstate the trial court judgment.

Supreme Court of Louisiana
October 04, 2022


Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2022-C-00929

KAYLA LANDRY

VS.

STATE FARM AUTOMOBILE INSURANCE COMPANY, ET AL.

*On Writ of Certiorari to the Court of Appeal, Third Circuit,
Parish of Jefferson Davis*

PER CURIAM

Writ granted in part. The court of appeal erred in deducting the percentage of fault allocated to the plaintiff from its initial calculation of damages rather than the stipulated amount awarded. The percentage of fault assessed to a plaintiff under La. C.C. art. 2323 is deducted from stipulated damages which represent the maximum amount recoverable – damages above the stipulated amount are regarded as waived. *Beggs v. Harrah’s New Orleans Casino*, 14-0725, p. 15 (La.App. 4 Cir. 1/21/15), 158 So.3d 917, 926 (citing *Bullock v. Graham*, 96-0711, p. 5 (La. 11/1/96), 681 So.2d 1248, 1251, *abrogated on other grounds by Benoit v. Allstate Ins. Co.*, 00-0424 (La. 11/28/00), 773 So.2d 702); *Hall v. Brookshire Bros., Ltd.*, 02-2404, p. 23 (La. 6/27/03), 848 So.2d 559, 573 (observing “it was the voluntary action of the plaintiff [in *Bullock*] that limited her recovery”). We therefore reduce the \$40,000.00 award of damages to \$30,000.00 in accordance with the allocation of twenty-five percent (25%) fault to the plaintiff. In all other respects, the writ is denied.

COURT OF APPEAL JUDGMENT AMENDED