

The Supreme Court of the State of Louisiana

DARCY DRIVER, DEANN DRIVER AND
DANIELLE DRIVER-ROUSSEL,
INDIVIDUALLY AND ON BEHALF OF THEIR
DECEASED PARENTS, ALBERT, JR. AND
KATHIE DRIVER

No. 2025-C-00391

VS.

WILLIS KNIGHTON PIERREMONT HEALTH
CENTER, ET AL.

IN RE: Louisiana Patient's Compensation Fund Oversight Board - Applicant
Intervenor; Applying For Writ Of Certiorari, Parish of Caddo, 1st Judicial District
Court Number(s) 618,081, Court of Appeal, Second Circuit, Number(s) 56,039-CA;

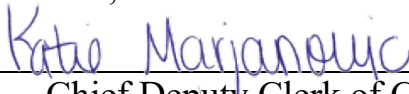
June 25, 2025

Writ application granted. See per curiam.

JLW
WJC
JBM
PDG
JMG
CRC

Hughes, J., concurs and assigns reasons.

Supreme Court of Louisiana
June 25, 2025



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2025-C-00391

consolidated with

No. 2025-C-00400

**DARCY DRIVER, DEANN DRIVER AND DANIELLE DRIVER-ROUSSEL,
INDIVIDUALLY AND ON BEHALF OF THEIR DECEASED PARENTS,
ALBERT, JR. AND KATHIE DRIVER**

VS.

WILLIS KNIGHTON PIERREMONT HEALTH CENTER, ET AL.

On Writ of Certiorari to the Court of Appeal, Second Circuit, Parish of Caddo

PER CURIAM

Writs granted. In this medical malpractice suit, the court of appeal found the jury’s determination that plaintiffs failed to prove the applicable standard of care was manifestly erroneous, reversed the verdict, conducted *de novo* review, and rendered judgment in favor of plaintiffs and against defendants, Willis-Knighton Health Center and Nkunj Parikh, M.D. However, the appellate court failed to compare and allocate fault between the two defendants.

Louisiana Civil Code article 2323 provides that “[i]n any action for damages where a person suffers injury, death, or loss, the degree or percentage of fault of all persons causing or contributing to the injury, death, or loss shall be determined . . . regardless of the basis of liability.” Article 2323 requires the fault of every tortfeasor responsible for a plaintiff’s injuries be compared, regardless of the legal theory of liability asserted. *Dumas v. State ex rel. Dept. of Culture, Recreation & Tourism*, 2002-0563 (La. 10/15/02), 828 So. 2d 530, 537. If the fact finder determines two tortfeasors negligently injured a plaintiff, the liability between them will be a joint

and divisible obligation; they will not be solidarily liable, and each tortfeasor will be liable only for their portion of fault. *Dumas*, 828 So. 2d at 537. It is well-settled that the comparative fault regime applies to liability based on medical malpractice. *Miller v. LAMMICO*, 2007-1352 (La. 1/16/08), 973 So. 2d 693, 705. Further, comparative fault must be allocated prior to imposition of the Louisiana Medical Malpractice Act's damages cap. *Miller*, 973 So. 2d at 711.

The failure to apportion fault among the defendants constitutes legal error. *Hoffman v. East Jefferson General Hosp.*, 2000-1216 (La. App. 5 Cir. 12/13/00), 778 So. 2d 33, 42, *writ denied*, 2001-0117 (La. 3/16/01), 787 So. 2d 314. Consequently, we vacate the judgment of the court of appeal and remand this matter to the court of appeal to perform the comparative fault analysis required by Article 2323. We express no opinion on the merits of any other argument raised in these writ applications.

**WRITS GRANTED; JUDGMENT OF APPELLATE COURT VACATED;
REMANDED TO APPELLATE COURT WITH INSTRUCTIONS.**