

# SUPREME COURT OF LOUISIANA

No. 94-C-1594

MICHAEL L. McALPINE

Versus

JONNIE FOX McALPINE

**CALOGERO, C.J., additionally, assigns concurring reasons.**

I respectfully concur in the judgment reversing the court of appeal's decision and reinstating the trial court's decision. I believe the majority is correct in its conclusion that C.C. art. 112 was not enacted for either the preservation of public order or good morals. Thus, C.C. art. 7 is not implicated in the waiver of permanent alimony by antenuptial agreement. I write separately to emphasize that in the absence of a provision enacted to protect the public interest, freedom of contract is the rule. "[F]reedom of parties to contract . . . is essential to both our society and system of government." *Holliday v. Holliday*, 358 So. 2d 618, 622 (La. 1978) (Calogero, C.J., dissenting). Furthermore, this case presents a more compelling case than the *Holliday* case, as the former concerns a waiver of permanent alimony, whereas the latter concerned only a waiver of alimony pendente lite.