

SUPREME COURT OF LOUISIANA

NO. 95-CC-2066

MARCIA THOMAS PENDLETON

V.

ROBERT L. BARRETT, ET AL

MARCUS, Justice (dissenting)

In my opinion, under La. R.S. 40:1299.44(C)(5), the court must determine the amount for which the fund is liable, i.e., damages caused by the admitted and established liability of the health care provider after one hundred thousand dollars has been paid in settlement. In other words, plaintiff has the burden to prove what damages in excess of \$100,000 were caused by the admitted liability (fault and damages of \$100,000) of the health care provider. Accordingly, I respectfully dissent.