

SUPREME COURT OF LOUISIANA

No. 95-CC-3074

FREDREK BIJOU

Versus

ALTON OCHSNER MEDICAL FOUNDATION, ET AL.

LEMMON, J., Concurring

While summary judgment generally is not appropriate for awarding tort damages, the statutory admission of liability and the statutory limitation on recovery of damages other than medical expenses makes a medical malpractice case different.

The determination of the amount of damages caused by defendant's admitted malpractice is a mixed question of fact and law. Viewing the facts in this record in the light most favorable to the party opposing summary judgment, a court would abuse its discretion, as a matter of law, by awarding damages of less than \$500,000. Accordingly, plaintiff is entitled to a summary judgment in the amount of \$500,000 as a matter of law.