

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

MICHAEL HURT, ALSO KNOWN AS
MICHAEL HURTS

NO. 2022 CW 0988

VERSUS

STATE OF LOUISIANA THROUGH
THE BOARD OF SUPERVISORS OF
LOUISIANA STATE UNIVERSITY
AND AGRICULTURAL AND
MECHANICAL COLLEGE, ON
BEHALF OF LSU HEALTH SCIENCE
CENTER-NEW ORLEANS, MICHAEL
BARKER, M.D. AND KRESHMEH
KHOSROWANI, M.D.

NOVEMBER 17, 2022

In Re: Michael Hurt, applying for supervisory writs, 19th
Judicial District Court, Parish of East Baton Rouge,
No. 713,571.

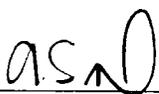
BEFORE: McCLENDON, WELCH, PENZATO, LANIER, AND WOLFE, JJ.

WRIT GRANTED. The August 11, 2022 judgment granting State of Louisiana through the Board of Supervisors of Louisiana State University on behalf of LSU Health Science Center-New Orleans's ("the State") exception of prematurity as to paragraphs 10, 14(a) (b) (c), and 15(a) (b) is reversed. The State used plaintiff's neuroleptic malignant syndrome diagnosis as a defense at the medical review panel hearing; therefore, the allegations in the specified paragraphs of plaintiff's petition related to an alleged misdiagnosis were necessarily encompassed in the previous review and findings of the medical review panel. Thus, the allegations contained in plaintiff's petition are not premature. See **Coulon v. Endurance Risk Partners, Inc.**, 2016-1146 (La. 3/15/17), 221 So.3d 809. Accordingly, State of Louisiana through the Board of Supervisors of Louisiana State University on behalf of LSU Health Science Center-New Orleans's exception of prematurity is denied.

PMc
JEW
WIL

Penzato and Wolfe, JJ., dissent and would deny the writ application.

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DEPUTY CLERK OF COURT
FOR THE COURT