

WANDA EVANS * NO. 2000-CA-0202
VERSUS * COURT OF APPEAL
CHARITY HOSPITAL IN NEW * FOURTH CIRCUIT
ORLEANS (NOW KNOWN AS * STATE OF LOUISIANA
MEDICAL CENTER OF *
LOUISIANA AT NEW *
ORLEANS) *

*

WALTZER, J. CONCURS IN PART AND DISSENTS IN PART

I concur in the result reached by the majority. Because the malpractice act grants immunities or advantages to special classes in derogation of the general rights available to tort victims, it must be construed strictly. Kelty v. Brumfield, 93-1142 p. 9 (La.2/25/94), 633 So.2d 1210, 1216.

I dissent from the majority's conclusion that the remand by the Supreme Court in effect reverses our prior opinion in Jackson v. America's Favorite Chicken Co., 98-0605 (La.App. 4 Cir. 2/3/99), 729 So.2d 1060. The Louisiana Supreme Court's remand of the instant case for review under our supervisory jurisdiction overrules by implication certain *dicta* of the Jackson opinion that is inconsistent with such supervisory review.; however, the basic holding of Jackson is not affected.