

**EUDORO TENORIO, MARIA
C. TENORIO AND CHRISTINA
DIERKER, ON BEHALF OF
HER MINOR CHILDREN,
RICARDO H. TENORIO AND
ANGELICA M. TENORIO**

*** NO. 2004-CA-0393
* COURT OF APPEAL
* FOURTH CIRCUIT
* STATE OF LOUISIANA**

VERSUS

**AUTOMOTIVE CASUALTY
INSURANCE COMPANY,
AMERICAN NATIONAL
PROPERTY AND CASUALTY
COMPANY, STATE OF
LOUISIANA THROUGH THE
DEPARTMENT OF
TRANSPORTATION AND
DEVELOPMENT, STATE OF
LOUISIANA THROUGH THE
DEPARTMENT OF PUBLIC
SAFETY, ET AL.**

MURRAY, J., CONCURS AND ASSIGNS REASONS

I write separately to further elaborate upon DOTD's exception of prescription, which I agree was properly denied by the district court. DOTD's exception was based upon La. R.S. 49:112, which provides that no claim or debt against the state shall be paid by the treasurer after the lapse of ten years from the happening of the event upon which the claim is based. I agree with the plaintiffs that this statute does not apply to DOTD, which is a state agency, under the circumstances of the instant case. Because this

statute is inapplicable, and because the plaintiffs' suit was filed within the prescriptive period applicable to a private-person defendant, I agree with the majority's conclusion that La. R.S. 13:5108 mandates denial of the exception in the instant case.

Accordingly, I respectfully concur.