

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

JANE DOE, INDIVIDUALLY AND
JOHN DOE, INDIVIDUALLY AND
AS NATURAL TUTOR FOR THE
MINOR CHILD J.D.

NO. 2020 CW 0727

VERSUS

WALT DISNEY PARKS AND
RESORT, US, INC., WALT
DISNEY TRAVEL CO., INC.,
WICKER, SMITH, O'HARA, MCCOY
& FORD, P.A., JONES WALKER,
LLP, AND STEVEN D. FELIX

OCTOBER 21, 2020

In Re: Steven D. Felix, M.D., applying for supervisory writs,
19th Judicial District Court, Parish of East Baton
Rouge, No. 688984.

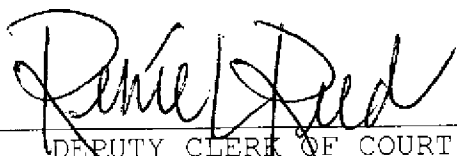
BEFORE: HIGGINBOTHAM, THERIOT, HOLDRIDGE, LANIER, AND WOLFE, JJ.

WRIT GRANTED. After a de novo review, we find the action brought against Dr. Felix in the Nineteenth Judicial District court is premature as it was filed prior to being submitted to and determined by a medical review panel. La. R.S. 40:1231.8(B)(1)(a)(i). Looking to the allegations found in the petition, we find the allegations against Dr. Felix are claims for lack of consent and dereliction of professional skill during treatment, which are allegations that fall within the Medical Malpractice Act. **Lugenbuhl v. Dowling**, 96-1575 (La. 10/10/97), 701 So.2d 447, 453. See also **Wilson v. Landry ex rel.**, 98-2365 (La. App. 1st Cir. 12/28/99), 748 So.2d 655, writ denied sub nom., **Wilson ex rel. T.W. v. Landry**, 2000-0260 (La. 3/24/00), 758 So.2d 155; La. R.S. 40:1157.1. Therefore, this writ is granted, the July 27, 2020 judgment denying Dr. Felix's exception of prematurity is reversed, the exception of prematurity filed by Steven D. Felix, M.D. is sustained, and the claims against him filed by the Does are dismissed without prejudice.

TMH
MRT
GH
WIL

Wolfe, J., dissents and would deny the writ.

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FOR THE COURT