

**HERBERT FREEMAN, JR.,
INDIVIDUALLY AND IN HIS
CAPACITY AS
REPRESENTATIVE OF THE
ESTATE OF ETHEL
FREEMAN**

VERSUS

**THE STATE OF LOUISIANA,
LOUISIANA DEPARTMENT
OF TRANSPORTATION AND
DEVELOPMENT, LOUISIANA
DEPARTMENT OF HEALTH
AND HOSPITALS, LOUISIANA
STATE UNIVERSITY HEALTH
SCIENCES CENTER, ET AL.**

* NO. 2007-CA-1555
* COURT OF APPEAL
* FOURTH CIRCUIT
* STATE OF LOUISIANA
*
*
* * * * *

JONES, J., DISSENTS WITH REASONS

I respectfully dissent from the opinion of the majority. In deciding whether to sustain an exception of no cause of action, a district court accepts the facts alleged in the plaintiffs' petition without reference to any extraneous supporting or controverting evidence and determines whether the law affords any relief to the plaintiff if those facts are proved at trial. *Bibbins v. City of New Orleans*, 2002-1510, pp. 2-3 (La.App. 4 Cir. 5/21/03), 848 So.2d 686, 689-690. I believe that the Appellant, Herbert Freeman, Jr., set forth the facts necessary to state a cause of action against the Appellees.

Furthermore, I find that a discussion of the applicability of the defense of sovereign immunity is not necessary at this juncture.