

**HIRAM LAWRENCE
ARMSTRONG**

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NO. 2014-CA-1137

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COURT OF APPEAL

VERSUS

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FOURTH CIRCUIT

**SIMON METZNER, STATE
FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY, AND
PROGRESSIVE SECURITY
INSURANCE COMPANY**

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STATE OF LOUISIANA

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BAGNERIS, J., DISSENTS WITH REASONS

I respectfully dissent from the majority opinion that reverses the district court's judgment to reduce the medical lien of Louisiana State University, Health System, Health Care Services Division from \$51,801.66 to \$4,896.57 and the medical lien of University Medical Center Management Company from \$6,912.73 to \$731.67. I find that La. R.S. 9:4752 is silent to the current situation wherein the settlement recovery proves insufficient to satisfy the medical expenses incurred and also provide compensation for the injured person. The plaintiff settled his damage claim for the total amount of \$55,500.00; however, the medical liens asserted totaled \$58,714.39. As the trial court stated in the hearing on the writ of mandamus, "it just seems inherently unfair to me that someone who suppose [sic] to be providing health care is going to get all of the money and the person who is injured doesn't get any of it." Further, medical provider liens should not deprive a plaintiff a portion of the recovery for his non-medical damages, such as pain and suffering. For these reasons, I would affirm the district court's judgment to reduce the medical liens and its finding that the medical provider should not be entitled to the entire net settlement amount.