

**STATE OF LOUISIANA  
COURT OF APPEAL, THIRD CIRCUIT**

**12-996 consolidated with 12-995**

**CHARLES TAYLOR, JR., ET UX.**

**VERSUS**

**DR. RICHARD CLEMENT, ET AL.**

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**APPEAL FROM THE  
FOURTEENTH JUDICIAL DISTRICT COURT  
PARISH OF CALCASIEU, NO. 1999-191 C/W 1997-4329  
HONORABLE CLAYTON DAVIS, DISTRICT JUDGE**

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**MARC T. AMY  
JUDGE**

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Court composed of Ulysses Gene Thibodeaux, Chief Judge, Jimmie C. Peters, and Marc T. Amy, Judges.

**AFFIRMED. MOTION FOR EN BANC HEARING DENIED.**

**Thibodeaux, Chief Judge, specially concurs.**

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**AMY, Judge.**

For the reasons expressed in the consolidated case of *Susan Arrington v. ER Physician Group*, 12-995 (La.App. 3 Cir. \_\_/\_\_/13), \_ So.3d \_, the judgment of the trial court, rendered on June 18, 2012 is affirmed. The motion for en banc hearing is denied. All costs of this proceeding are assessed to the plaintiffs-appellants.

**AFFIRMED. MOTION FOR EN BANC HEARING DENIED.**

**STATE OF LOUISIANA  
COURT OF APPEAL, THIRD CIRCUIT**

**12-995**

**SUSAN ARRINGTON, ETC.**

**VERSUS**

**ER PHYSICIAN GROUP, INC., ET AL.**

**(Consolidated With)**

**12-996**

**CHARLES TAYLOR, JR., ET UX.**

**VERSUS**

**DR. RICHARD CLEMENT, ET AL.**

**THIBODEAUX, Chief Judge, specially concurring.**

I still maintain my position that the medical malpractice cap is unconstitutional on the bases of equal protection, due process, and separation of powers. However, I must sacrifice my intellectual independence and judicial beliefs to what is the clear pronouncement of the Louisiana Supreme Court in *Oliver v. Magnolia Clinic*, 11-2132 (La. 3/13/12), 85 So.3d 39.