

Judgment rendered January 10, 2013.

No. 47,530-CA

ON REHEARING

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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BEVERLY FARMER, INDIVIDUALLY AS
THE PROVISIONAL TUTRIX OF VIRGINIA
MARTIN, ET AL

Plaintiffs/Third Appellants

versus

WILLIS-KNIGHTON MEDICAL CENTER

Defendant/Second
Appellant

* * * * *

Per Curiam on Rehearing

Originally appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 521,823-C

Honorable Leon L. Emanuel, Judge

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Third Appellants

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Patient's Compensation
Fund & The Louisiana
Patient's Compensation
Fund Oversight Board

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Before WILLIAMS, DREW, MOORE, PITMAN & SEXTON (*Pro Tempore*), JJ.

PER CURIAM

Inasmuch as the awards made in our original opinion exceed the statutory cap of \$500,000 imposed by La. R.S. 40:1299.42B(1) of the Louisiana Medical Malpractice Act, we grant the application for rehearing filed by the Patient's Compensation Fund for the limited purpose of amending our decree to impose that statutory cap.¹

Accordingly, we amend our decree to limit the awards against Willis-Knighton Medical Center to the total of One Hundred Thousand Dollars (\$100,000), plus legal interest from the date of the filing of the Patient's Compensation Fund Claim on February 1, 2002, until paid. We further amend our decree to cast the Patient's Compensation Fund in judgment for Four Hundred Thousand Dollars (\$400,000), plus legal interest from the date of the filing of the Patient's Compensation Fund Claim on February 1, 2002, until paid.

AMENDED AND, AS AMENDED, AFFIRMED.

¹In so doing, we find that it is appropriate to allow the \$250,000 survival action award to stand in its entirety, but reduce the awards for the derivative claims. *See* Emily Townsend Black Grey, *The Medical Malpractice Damages Cap: What Is Included?*, 60 La. L. Rev. 547 (2000); *Newsom v. Lake Charles Memorial Hospital*, 2006-1468 (La. App. 3d Cir. 4/4/07), 954 So.2d 380, *writ denied*, 2007-0903 (La. 6/15/07), 958 So.2d 1198; *Todd v. Sauls*, 94-10 (La. App. 3d Cir. 12/21/94), 647 So. 2d 1366, *writs denied*, 95-0206, 95-0219 (La. 3/24/95), 651 So. 2d 289. Consequently, the wrongful death award of \$60,000 to each of the 13 children is reduced to \$19,063.74 per child, and the award for funeral expenses is reduced from \$6,833.72 to \$2,171.27.