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[Texas Supreme Court Orders & Opinion 3/6/09](#)

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The Texas Supreme Court released one new opinion with [today's regular orders](#).

In [Phillips v. Bramlett](#) (No. 07-0522), the Court considered the relationship between (1) former Article 4590i's cap limiting physicians' (and other health care providers') liability to \$500,000, adjusted for inflation (Section 11.02(a)); and (2) the exception to this cap that applies when the doctor's insurer has negligently failed to settle under the *Stowers* doctrine (Section 11.02(c)). Concluding that a judgment against a physician must conform to the cap, the Court reversed the court of appeals' judgment allowing an excess recovery.

The Court explained that, when malpractice insurance coverage falls below the cap, the doctor and injured patient may share the *Stowers*-exception claim if the damages finding exceeds the capped amount. When coverage exceeds the cap, however, the physician is fully protected, and only the injured patient has incentive to pursue the *Stowers* exception. In either case, the *Stowers* claim must be brought separately from the negligence action.

Justice O'Neill (joined by Chief Justice Jefferson and Justices Hecht, and Green) [dissented](#).