

NO. 07-05-0456-CV

IN THE COURT OF APPEALS

FOR THE SEVENTH DISTRICT OF TEXAS

AT AMARILLO

PANEL E

APRIL 30, 2007

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BENNY P. PHILLIPS, M.D., APPELLANT

V.

DALE BRAMLETT, INDIVIDUALLY, AND AS INDEPENDENT  
ADMINISTRATOR OF THE ESTATE OF VICKI BRAMLETT, DECEASED;  
SHANE FULLER AND MICHAEL FULLER, APPELLEES

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FROM THE 237<sup>TH</sup> DISTRICT COURT OF LUBBOCK COUNTY;

NO. 2003-522,183; HONORABLE SAM MEDINA, JUDGE

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Before CAMPBELL and HANCOCK, JJ. and REAVIS, S.J.<sup>1</sup>

### **OPINION ON ORDER OF REMITTITUR**

Appellees, Shane Fuller and Michael Fuller have filled a remittitur of \$220,000 each, as suggested in our opinion of March 19, 2007. Accordingly, that portion of the trial court judgment providing that Shane Fuller collect from Benny P. Phillips, M.D. for future pecuniary loss in the principal amount of \$250,000 is reformed to provide that Shane Fuller recover from Benny P. Phillips, M.D. the principal amount of \$30,000 for future pecuniary

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<sup>1</sup> Don H. Reavis, Justice (Ret.), Seventh Court of Appeals, sitting by assignment.

loss. That portion of the trial court judgment providing that Michael Fuller collect from Benny P. Phillips, M.D. for future pecuniary loss in the principal amount of \$250,000 is reformed to provide that Michael Fuller recover from Benny P. Phillips, M.D. the principal amount of \$30,000 for future pecuniary loss. That portion of the trial court judgment providing prejudgment interest is reformed to provide for prejudgment interest on the principal amount \$2,921,000 through October 3, 2005, of \$545,146.62. After an offset of prejudgment interest for a written settlement offer of \$6,630 the total prejudgment interest is \$538,516.62.

The trial court judgment is affirmed as reformed herein and is reversed and rendered on the issue of gross negligence, as reflected in our opinion of March 19, 2007.

Mackey K. Hancock  
Justice

Consistent with his dissent to the Court's opinion in this case of March 19, 2007, Campbell, J., dissents without opinion.

Reavis, S.J., concurring.