

IN THE SUPREME COURT OF TEXAS

No. 98-0396

AMERICAN HOME ASSURANCE COMPANY, APPELLEE
v.
BILLY CARL STEPHENS AND RORY ROSS, APPELLANTS

ON CERTIFIED QUESTION FROM THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

PER CURIAM

Argued on September 28, 1998

This case comes to us on a certified question from the United States Court of Appeals for the Fifth Circuit. The question is “[w]hether it is against public policy for an insurer to limit coverage for a therapist’s non-sexual misconduct because sexual misconduct is alleged to have occurred in the same or related course of professional treatment, even though such sexual misconduct is immaterial to the non-sexual misconduct claims asserted.”¹ After careful consideration of the question, we conclude that Judge Reavley correctly applied Texas law in his dissent to the panel opinion that was subsequently withdrawn.² For the reasons Judge Reavley explained, we answer the certified question no.

Opinion delivered: December 3, 1998

¹ *American Home Assurance Co. v. Stephens*, 140 F.3d 617, 618 (5th Cir. 1998).

² *American Home Assurance Co. v. Stephens*, 130 F.3d 123, 128-30 (5th Cir. 1997)(Reavley, J., dissenting), *withdrawn*, 140 F.3d 617 (5th Cir. 1998).