

# IN THE SUPREME COURT OF TEXAS

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No. 06-0874

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BOSSIER CHRYSLER-DODGE II, INC., D/B/A BOSSIER COUNTRY,  
PETITIONER,

v.

BRYAN RAUSCHENBERG, RESPONDENT

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ON PETITION FOR REVIEW FROM THE  
COURT OF APPEALS FOR THE TENTH DISTRICT OF TEXAS

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## PER CURIAM

In this appeal we are asked to consider whether the case should be remanded for a new trial on attorney's fees. A divided court of appeals affirmed the attorney's fees award although it reduced the trial court's damage award by eighty-seven percent. 201 S.W.3d 787. We have said that the issue of attorney's fees should ordinarily be retried under these circumstances unless the appellate court is "reasonably certain that the jury was not significantly influenced by the erroneous [damage award]." *Barker v. Eckman*, 213 S.W.3d 306 (Tex. 2006). Our opinion in *Barker* issued after the court of appeals' opinion in this case, and thus the court of appeals did not have the benefit of that decision. Accordingly, without hearing oral argument pursuant to Rule 59.1 of the Texas Rules of Appellate Procedure, we grant the petition for review and reverse that part of the court of appeals' judgment regarding attorney's fees, and remand the case to the court of appeals for its consideration of the attorney's fees issue in light of *Barker*.

Opinion delivered: November 2, 2007