THOUGHT LEADERSHIP

News

COURT FINDS THIRD-PARTY HAS DIRECT ACTION AGAINST PHYSICIAN'S INSURER FOR STOWERS EXPOSURE UNDER MEDICAL LIABILITY ACT

Newsbrief
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Last Monday, the U.S. District Court for the Northern District of Texas held that an insurer's failure to exercise reasonable care in settling claims against an insured physician, were not capped by the now- repealed version of the Medical Liability and Insurance Improvement Act (MLIIA) and, the injured party had standing to bring a direct action against the insurer under the common law Stowers Doctrine exception to the MLIIA. In *Bramlett v. Medical Protective Co. of Fort Wayne, In.,* 2012 WL 692032 (N.D.Tex. March 5, 2012), an injured third-party obtained a judgment in excess of the physician's statutory liability cap and, also in excess of the insured physician's liability insurance policy limits. The injured third-party then sought to bring a direct-action against the insurer for the *Stowers* liability.

The court examined Texas case law applying the Stowers exception to the MLIIA and its purpose of encouraging insurers to resolve claims. The court also noted the distinction in the insurer's defenses applicable to the insured, differ from those applicable to third-parties. And, interpreting the exception, the court held that exception provided a direct third-party action against the insurer. *Editor's Note: Although the issue addressed in this case has been clarified by statutory changes and is unlikely to recur, the case remains significant in recognizing a direct third-party action against an insurer under Texas law. We continue to monitor this trend.*