

IN THE SUPREME COURT OF TEXAS

=====
No. 04-0728
=====

FAIRFIELD INSURANCE COMPANY, APPELLANT,

v.

STEPHENS MARTIN PAVING, LP; CARRIE BENNETT, INDIVIDUALLY AND AS
REPRESENTATIVE OF THE ESTATE OF ROY EDWARD BENNETT, DECEASED, AND AS
NEXT FRIEND OF LANE EDWARD BENNETT, C. L. B., AND A. A. B., MINOR,
APPELLEE

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

Argued November 9, 2004

JUSTICE JOHNSON, concurring in part.

I join the Court's opinion as to parts I, II and IV. However, I consider part III of the opinion to go further than necessary in responding to the certified question presented even in light of Texas Constitution article V, section 3-c. Accordingly, I do not join part III and express neither agreement nor disagreement with its substance.

Phil Johnson
Justice

OPINION DELIVERED: February 15, 2008