

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 01-20298

ASSOCIATED INTERNATIONAL INSURANCE COMPANY,

Plaintiff-Counter Defendant-Appellee,

VERSUS

BOYD BLYTHE; ET AL.,

Defendants,

BOYD BLYTHE; CHRISTOPHER SHAWN WOOD, Individually, and
as Representative of Slade Zacharia Wood,

Defendants-Counter-Claimants-Appellants.

Appeals from the United States District Court
For the Southern District of Texas, Houston

April 16, 2002

ON PETITION FOR REHEARING

(Opinion March 22, 2002, 5th Cir., 2002, ___F.3d___)

Before DAVIS, WIENER and BARKSDALE, Circuit Judges.

PER CURIAM:

We deny Associated International Insurance Company's motion
for rehearing.

In response to Associated's petition for panel rehearing, we

substitute the following in place of section IV of the opinion as originally issued:

IV.

Based on our review of the case law in Texas and in other jurisdictions, we conclude that under the allegations of Associated's complaint, Blythe was covered under the Associated excess policy as an additional insured and the district court's judgment denying Blythe's Partial Motion for Summary Judgment and granting Associated's Motion for Summary Judgment on that issue must be reversed. The district court's order dismissing Blythe's and Wood's extra-contractual claims against Associated solely as a consequence of the district court's conclusion on the coverage issue must also be reversed and those claims remanded for trial.

Accordingly, the district court's judgment is REVERSED and this case is REMANDED for further proceedings consistent with this opinion.