

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 99-30965

ELTON FITZGERALD ELLIS

Plaintiff - Appellee

VERSUS

WEASLER ENGINEERING INC.; ET AL.

Defendants

NUT HUSTLER INC.,

Defendant - Appellant

Appeal from the United States District Court
For the Western District of Louisiana

November 27, 2001

ON PETITION FOR REHEARING EN BANC

(Opinion July 11, 2001, 5th Cir., 2001, ___F.3d___)

Before SMITH and DENNIS, Circuit Judges, and HARMON,* District
Judge.

PER CURIAM:

No member of the panel or judge in regular active service
having requested that the court be polled on rehearing en banc

* District Judge of the Southern District of Texas, sitting
by designation.

(FED. R. APP. P. 35 and 5TH CIR. R. 35), the petition for rehearing en banc is DENIED. Treating the petition for rehearing en banc as a petition for panel rehearing, the petition for panel rehearing is DENIED.

The panel opinion issued on July 11, 2001, 258 F.3d 326 (5th Cir. 2001), is AMENDED by the present panel majority to delete Part II.B. of that opinion, and related mention of the distinction between decisions on law and facts in Louisiana cases.¹

Judge Dennis adheres to the original opinion in its entirety.

THE MANDATE SHALL ISSUE FORTHWITH.

¹ The related references in the original opinion, 258 F.3d 326, include note 8 and accompanying text on page 332, the second full paragraph on page 340, and the parenthetical in the first sentence of the last paragraph that begins on page 340.