

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

m 00-50223

ROBERT STOVALL,

Plaintiff,

JARY M. GANSKE AND SHIRLEY B. GANSKE,

Intervenor Plaintiffs-
Counter Defendants-
Appellees,

VERSUS

WRS GROUP, LTD.,

AND

DONNA SPENCE,

INDEPENDENT EXECUTOR OF THE ESTATE OF WAYMAN R. SPENCE, DECEASED,

Defendants-
Intervenor Defendants-
Counter Plaintiffs-
Appellants,

SCOTT SALMANS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
(W-99-CV-239)

January 3, 2001

ON PETITION FOR REHEARING

Before POLITZ, SMITH, and PARKER,
Circuit Judges.

PER CURIAM:*

The petition for rehearing is GRANTED IN PART. The opinion issued on December 7, 2000, is WITHDRAWN, and the following is substituted:

This is essentially a dispute over whether certain matters were settled with finality. We have reviewed the briefs, the record, and the applicable law and have heard and considered the oral arguments of counsel.

We conclude that the matters in dispute were in fact settled by release. Moreover, appellants have failed to demonstrate a material issue of fact with respect to their contract claim. The district court correctly entered a take-nothing judgment and denied the intervenors' claims as moot.

AFFIRMED.

In all other respects, the petition for rehearing is DENIED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.