

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 4, 2008

No. 06-51598

Charles R. Fulbruge III
Clerk

James McArdle; Chung McArdle

Plaintiffs-Appellants

v.

State Farm Lloyds

Defendant-Appellee

Appeal from the United States District Court
for the Western District of Texas
1:06-CV-303

Before JONES, Chief Judge, GARWOOD, and JOLLY, Circuit Judges.

PER CURIAM:*

The judgment is affirmed. There was no duty to defend. See *Wessinger v. Fire Ins. Exchange*, 949 S.W.2d 834, 841 (Tex. App.—Dallas 1997; no writ). Under these circumstances, there being no duty to defend, there was no duty to indemnify. See *American States Ins. Co. v. Bailey*, 133 F.3d 363, 368 (5th Cir. 1998).

AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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