

FILED

December 15, 2005

Charles R. Fulbruge III
Clerk

**UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT**

No. 05-60298

(Summary Calendar)

THOMAS J PLUSKAT, In the Matter of the Estate of and the Last Will and Testament of Mary Ried, Deceased,

Plaintiff - Appellee,

versus

MICHAEL B CUPIT,

Defendant - Appellant.

Appeal from the United States District Court
For the Southern District of Mississippi
USDC No. 3:04-CV-611

Before SMITH, GARZA, and PRADO Circuit Judges.

PER CURIAM:*

Michael B. Cupit appeals the district court's award of attorney's fees pursuant to 28 U.S.C. § 1447(c). Cupit contends that the attorney's fee provision contained in § 1447(c) is inapplicable to

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

this case because it was removed pursuant to 28 U.S.C. § 1452 and not 28 U.S.C. § 1446. Cupit's argument that 28 U.S.C. § 1447 is inapplicable to bankruptcy claims is foreclosed by the reasoning of *Things Remembered, Inc. v. Petrarca*, 516 U.S. 124, 128-29 (1995) (rejecting contention that prohibition on appellate review of remand orders contained in § 1447(d) did not apply to removals based on bankruptcy jurisdiction). *See also Coward v. AC and S, Inc.*, 91 Fed.Appx. 919 (5th Cir. 2004) (unpublished) (rejecting Cupit's argument); *Daleske v. Fairfield Communities, Inc.*, 17 F.3d 321, 324 (10th Cir. 1994) (same).

AFFIRMED.