

FILED

February 23, 1999

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-11196
Summary Calendar

KICKHAM GROUP INCORPORATED, doing business as Conway Oil,
Plaintiff-Appellant,
versus
AMERICAN NATIONAL FIRE INSURANCE COMPANY,
Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(3:96-CV-1823-D)

February 23, 1999

Before KING, Chief Judge, BARKSDALE and STEWART, Circuit Judges.

PER CURIAM:*

Kickham Group appeals the district court's grant of summary judgment in this diversity action for indemnification under an insurance policy. But, subsequent to that judgment being rendered, Kickham Group's underlying liability for slander of title was overturned by the Texas Court of Appeals, which rendered a take-nothing judgment on that issue. See *Hill v. Heritage Resources, Inc.*, 964 S.W.2d 89, 127-28, 144 (Tex.App.-El Paso Dec. 31, 1997), rehearing overruled (Feb. 18, 1998), review denied (Oct. 01, 1998),

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

rehearing of petition for review overruled (Dec. 03, 1998).
Accordingly, the appeal is

DISMISSED AS MOOT.