

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11458

GEMMY INDUSTRIES CORPORATION,

Plaintiff-Appellant,

v.

ALLIANCE GENERAL INDUSTRIES COMPANY;
AMERICAN EQUITY INSURANCE COMPANY,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(3:98-CV-14-BD)

November 5, 1999

Before KING, Chief Judge, and REYNALDO G. GARZA and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Plaintiff-appellant Gemmy Industries Corporation does not dispute that its notices to defendants were untimely. We are persuaded that the district court correctly concluded that the failure to give timely notice would preclude coverage of the alleged advertising injury claim under the policies without regard to whether defendants were prejudiced by the untimely notice. Having so concluded, we need not address the question

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

whether there is coverage under the advertising injury provision of the policies. The judgment of the district court is

AFFIRMED.