

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10833

STATE BANK & TRUST CO., DALLAS,

Plaintiff-Appellant,

versus

INSURANCE COMPANY OF THE WEST,

Defendant-Appellee.

Appeal from the United States District Court for the
Northern District of Texas
(3:95-CV-2395-G)

April 7, 2000

Before POLITZ, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

This case involves claims of conversion and unjust enrichment brought by State Bank, the plaintiff-appellant, against the Insurance Company of the West (ICW), the defendant-appellee. State Bank was the creditor of a plumbing subcontractor (DRT) that defaulted on its loans. State Bank contends that ICW, the surety for DRT, tortiously converted the tools, equipment and inventories of DRT, against which State Bank had secured its loans. Specifically, State Bank argues that ICW converted this property

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

when ICW stepped in to complete three commercial subcontracts as required by ICW's performance bonds with DRT.

We have reviewed the record and studied the briefs in this matter. We have also considered the arguments made before us. The district court thoroughly treated the issues before it in a well reasoned opinion. We cannot say that the district court was clearly erroneous in determining that State Bank consented to the use of materials and tools by ICW. Consequently, we agree with the district court that State Bank is entitled to no equitable relief, either under a theory of conversion or unjust enrichment. Therefore, the judgment of the district court is

A F F I R M E D.