

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

May 18, 2022

Lyle W. Cayce
Clerk

No. 19-20489

MAXIM CRANE WORKS, L.P.,

Plaintiff—Appellant,

versus

ZURICH AMERICAN INSURANCE COMPANY,

Defendant—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:18-CV-03667

Before SMITH, HO, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

The parties to this insurance coverage dispute stipulate to all relevant facts and agree that the outcome turns on a single question of statutory interpretation: Who counts as an “employee” under the Texas Anti-Indemnity Act? *See* TEX. INS. CODE §§ 151.102, 151.103. Specifically, if an individual is employed by a general contractor, is that individual also an

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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“employee” of the subcontractor, such that the employee exception of the Act applies?

We certified this question to the Supreme Court of Texas. And that court has now answered: No, the employee exception does not apply. *Maxim Crane Works, L.P. v. Zurich Am. Ins. Co.*, 642 S.W.3d 551, 553 (Tex. 2022).

We accordingly affirm.