

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-4347
Summary Calendar

KENT ANDREW FOLLETTE and JANE ELIZABETH FOLLETTE,
Individually and as Next Friends of
Andrew Stephenson Follette, a Minor Child,

Plaintiffs-Appellants,

VERSUS

CLAIROL INC., et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
92 CV 0754

July 16, 1993

Before HIGGINBOTHAM, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

The plaintiff parents sued Clairol, Inc. ("Clairol"), and Walmart Stores, Inc. ("Walmart"), in the United States District Court for the Eastern District of Texas, on the basis of diversity jurisdiction, for injuries allegedly sustained by their child from the explosion in Louisiana of a jug of hair spray. The defendants moved to dismiss for want of personal

* Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

jurisdiction. The district court, finding an inconvenient forum, transferred the matter to the United States District Court for the Western District of Louisiana pursuant to 28 U.S.C. § 1404(a).

In light of the intervening decision in Siemer v. Learjet Acquisition Corp., 966 F.2d 179 (5th Cir. 1992), cert. denied, 113 S. Ct. 1047 (1993), the district court held that the Texas court never had acquired personal jurisdiction over the defendants and that, accordingly, the Louisiana federal court was free to apply Louisiana's one-year prescriptive period. The court thus granted defendants' motion for summary judgment on the ground of prescription.

The district court based its judgment upon the reasons given by the magistrate judge in his comprehensive, sixteen-page Report and Recommendation entered February 2, 1993. We find the magistrate judge's analysis persuasive, and we AFFIRM essentially for the reasons set forth in that report.