

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3680

GERTRUDE GARRETT, ET AL.,
Plaintiffs-Appellants,
versus
RICHARD C. BLANTON, ET AL., Defendant,
HOECHST-CELANESE CORP. and R. N. EXPRESS,
INC.,
Defendants-Appellees.

Consolidated with

No. 93-3777

IN RE: HOECHST CELANESE CORPORATION,
Petitioner.

Appeals from the Unites States District Court
for the Eastern District of Louisiana
(CA 89 4367 N c/w 90 0319, 90 0320, 90 0321, 90 0322 & 90 0323)

(August 5, 1994)

Before WIENER, EMILIO M. GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:*

*Local Rule 47.5 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

In these consolidated appeals, implementing the district court's remand to state court (after approximately four years of litigation and considerable discovery), Celanese seeks to obtain review of the remand order via mandamus, insisting that the case is an extraordinary one and that, as the district court made reference to certain affidavits in reversing its two previous denials of motions to remand, appellate review is not precluded under § 1447(c) and (d). On the other hand, Plaintiffs-Appellants, who oppose review of the court's remand order via appeal, mandamus, or otherwise, seek costs and fees under § 1447(c), insisting that their appeal of the district court's earlier order denying remand sufficiently implicated the cost and fees provisions of § 1447(c) that the district court should have considered and awarded such costs and expenses sua sponte. Plaintiffs-Appellants likewise contend that, even though under § 1447(d) we have no jurisdiction to review the district court's ultimate remand order based on subject matter jurisdiction, whether by appeal or otherwise, e.g., by mandamus, both we and the district court have continuing jurisdiction to consider the issue of costs and expenses under § 1447(c).

We have carefully considered the briefs filed on behalf of the parties, have closely reviewed the appellate record in this case, and have duly considered the oral arguments of able counsel before this court; as a result of which we conclude inescapably that the petition of Celanese for a writ of mandamus is an impermissible attempt to obtain review of an unappealable district court remand

to state court for lack of subject matter jurisdiction - specifically, inadequate jurisdictional amounts - and that the position of Plaintiffs-Appellants in urging that the district court was required (as distinguished from permitted) to address costs and expenses under § 1447(c) sua sponte is without support in fact or in law. Consequently, the petition for writ of mandamus and all matters encompassed in the appeals consolidated herein must be and therefore are

DISMISSED.