

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60084
Summary Calendar

VICKIE C. STRICKLAND, ET AL.,

Plaintiffs-Appellants,

versus

MOTORS INSURANCE CORPORATION, ET AL.,

Defendants,

MOTORS INSURANCE CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
(CA-2:89-42(P)(S))

(June 14, 1994)

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

PER CURIAM:*

In this diversity case, Plaintiffs-Appellants Vickie C. Strickland and Leland Creel (Plaintiffs) appeal the district

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

court's grant of summary judgment in favor of Motors Insurance Company (MIC) on Plaintiffs' claim for extracontractual damages. We affirm.

The district court concluded that, as a matter of law, Plaintiffs are not entitled to extracontractual damages for MIC's "wrongful" denial of Plaintiffs' insurance claim because MIC had an arguable reason to deny the claim. The district court based its conclusion on Hans Construction Co. v. Phoenix Assurance Co. of New York.¹ In Hans Construction, a panel of this court made an Erie guess that, in light of Universal Life Ins. Co. v. Veasley,² the Mississippi Supreme Court would deny recovery of extra-contractual damages if an arguable reason to deny a plaintiff's claim existed.³

In a prior appeal of the case to this court, we upheld the district court's ruling that MIC had an arguable reason to deny Plaintiffs' claim.⁴ On these facts, our reading of Veasley, coupled with this court's pronouncement in Hans Construction) which binds us until the Mississippi Supreme Court makes a decision to the contrary))compels an affirmance. The district court's grant of summary judgment in favor of MIC is in all respects
AFFIRMED.

¹995 F.2d 53 (5th Cir. 1993).

²610 So. 2d 290 (Miss. 1992) (allowing extra-contractual damages when there was no arguable reason for the insurance company to deny the plaintiff's claim).

³995 F.2d at 55-56.

⁴Strickland v. Motors Ins. Corp., 970 F.2d 132, 137-38 (5th Cir. 1992).