

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-20957

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VICTORIA TEWELEIT,

Plaintiff,

versus

HARTFORD LIFE & ACCIDENT  
INSURANCE COMPANY,

Defendant-Cross Defendant-  
Cross Claimant-Counter  
Defendant-Appellee,

versus

THE TEXAS MUNICIPAL GROUP  
BENEFITS RISK POOL,

Defendant-Cross Claimant-  
Cross Defendant-Counter  
Claimant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
(CA-H-91-171)

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June 26, 1996

Before HIGGINBOTHAM, WIENER, and PARKER, Circuit Judges.

PER CURIAM:\*

We are not persuaded that Hartford owes indemnity to TML.

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\*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Common law indemnity in Texas is narrowly limited to those situations involving vicarious liability or an innocent retailer. Bonniwell v. Beech Aircraft Corp., 663 S.W.2d 816, 819-20 (Tex. 1984). TML's liability to Victoria Teweleit does not fit within either category. To the contrary, TML's liability to Teweleit was independent of Hartford's.

Similarly, we are not persuaded that Hartford owes TML indemnity under the Texas Deceptive Trade Practices Act. See Tex. Bus. & Com. Code Ann. § 17.555. Section 17.555 incorporates existing principles of contribution and indemnity law, including the limitation to situations involving vicarious liability and the innocent retailer, into DTPA cases. See Plas-Tex, Inc. v. U.S. Steel Corp., 772 S.W.2d 442, 446 (Tex. 1989). Neither Swafford v. View-Caps Water Supply Corp., 617 S.W.2d 674 (Tex. 1981), nor Saenz Motors v. Big H Auto Auction, Inc., 653 S.W.2d 521 (Tex. Civ. App.-Corpus Christi 1983), aff'd, 665 S.W.2d 756 (Tex. 1984), are to the contrary. Since TML is not entitled to common law indemnity, it is not entitled to DTPA indemnity.

AFFIRMED.