

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-30730

AVENGER MANUFACTURING COMPANY INCORPORATED,

Plaintiff-Appellee,

versus

SOUTHPOINT MARINA, ET AL.,

Defendants,

SOUTHPOINT MARINA,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
(95-CV-3424-C)

January 5, 1999

Before GARWOOD, DAVIS and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

In our April 13, 1998, opinion herein, we severed the appeal of the corporate defendant Port Isabel Marina/South Point, Inc. (also known as Southpoint Marina) because of its pending bankruptcy proceedings in which said party was debtor (*In re Port Isabel Marina/South Point, Inc.*, United States Bankruptcy Court, Southern

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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

District of Texas, McAllen Division, originally filed as No. 97-21408-B-11 in said court), and we abated that severed appeal pending termination of said bankruptcy proceeding or lifting the automatic stay therein, whichever was first.** We have now been informed that in September 1998 a final decree was entered in the referenced bankruptcy closing the bankruptcy case. Counsel for the corporate defendant-appellant has also advised that the corporate defendant and all of its assets have been sold.

Accordingly, the severed portion of this case involving the appeal of the said corporate defendant is now reactivated, and the Court, after consideration of the briefs, pertinent portions of the record, and the argument of counsel (this case was fully argued to the Court before this Court's order of April 13, 1998), concludes that no cause for reversal has been demonstrated, and accordingly as to said severed portion of this cause, namely the appeal of the said corporate defendant, the judgment of the district court is in all things AFFIRMED.***

** At the same time, we in all things affirmed the judgment in the nonsevered portion of the case (including the appeal of Scott Rowland (individually and doing business as Southpoint Marina).

*** All pending, undisposed-of motions pertinent to said severed case are denied.