

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-31271  
Summary Calendar

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C.H. FAULKENBERRY, JR.,

Plaintiff,

versus

JOHN ELKINS ET AL.,

Defendants.

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DAVID L. SMITH,

Plaintiff-Appellant,

versus

INTERNATIONAL BIOCHEMICALS GROUP, INCORPORATED,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC Nos. 95-CV-2041 and 85-CV-146

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November 19, 1998

Before KING, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

David L. Smith, assignee of C.H. Faulkenberry's interest in  
a 1986 consent judgment entered in the Middle District of

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\* 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that this opinion should not be published and is not precedent  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.

Louisiana against John Elkins, Benefit Systems, Inc., and Microbe Masters, Inc. ("Microbe"), appeals the district court's dismissal of his petition to revive the consent judgment against International Biochemicals Group, Inc. ("IBG"), Microbe's successor in interest. Smith argues that the district court erred in determining that Microbe had been inadvertently included in the consent judgment and that, even if Microbe had not been served in the original action, Microbe voluntarily acquiesced in the consent judgment, precluding IBG from asserting that the consent judgment is null.

We have reviewed the record and find no reversible error. Accordingly, the district court's judgment dismissing the petition to revive the consent judgment is affirmed. Smith's motion to incorporate the record and briefs filed in his previous appeal is denied.

AFFIRMED; MOTION DENIED.