

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8435

BEN MALONE and JO ANN MALONE,
Individually and as Next Friend
and Managing Conservators of
MICHAEL RHEA CORBIN, A Minor,

Plaintiffs-Appellants,

VERSUS

ALLSTATE LIFE INSURANCE CO.,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(MO-91-CV-46)

March 19, 1993

Before WIENER, BARKSDALE, and DEMOSS, Circuit Judges.

PER CURIAM:*

Having read the briefs of the parties, heard oral argument, and reviewed the record, we affirm the judgment of the district court for essentially the reasons stated by it in its comprehensive and detailed amended findings of fact and conclusions of law in granting summary judgment on whether an ERISA plan existed and whether appellants were entitled to the claimed benefits under that plan. In so doing, we conclude that the recent opinion by the Texas Supreme Court in *Forbau v. Aetna Life Ins. Co.*, No. D-1235, 1992 WL 316493 (Tex. Nov. 4, 1992), does not control.

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

AFFIRMED.