

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 21, 2009

No. 07-30823
Cons. w/ No. 07-30868

Charles R. Fulbruge III
Clerk

DALE DICKERSON; SHIRLEY DICKERSON

Plaintiffs - Appellees

v.

LEXINGTON INSURANCE COMPANY

Defendant - Appellant

Appeals from the United States District Court for the
Eastern District of Louisiana, New Orleans

ON PETITION FOR REHEARING EN BANC

(Opinion 12/22/08, 5 Cir., No. 07-30823 cons. w/ No. 07-
30868, F.3d)

Before KING, HIGGINBOTHAM, and WIENER, Circuit Judges.

PER CURIAM:

No member of the panel nor judge in regular active service¹ of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is GRANTED, the opinion of the court filed December 22, 2008² is WITHDRAWN, and the revised panel opinion filed herewith is SUBSTITUTED therefor.

¹ Judge Dennis and Judge Clement did not participate in the consideration of rehearing en banc.

² ___F.3d___ (5th Cir. 2008).