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The Court of Appeals for the Fifth Circuit: A Review of Selected 2009-2010 Insurance Decisions

Willy E. Rice

43 TEX. TECH L. REV. 971 (2011).

In light of the Erie doctrine, the Court of Appeals for the Fifth Circuit should certify insurance-conflict questions to the Texas Supreme Court when the opportunity presents itself. Twelve insurance-related cases decided by the Fifth Circuit illustrate issues that the Fifth Circuit struggle with when dealing with Erie problems. These insurance decisions concern jurisdictional, procedural, and substantive questions. How the Fifth Circuit applies the Erie doctrine is investigated at length. In the overwhelming majority of the cases, the panels faithfully adhered to the doctrine. The decisions were generally fair and based upon careful reviews of relevant facts and on intelligent applications of settled rules. However, the analyses of a few of the cases revealed inconsistent decisions. In light of these analyses, the Texas Supreme Court is superiorly qualified and better suited to determine what Texas's law is and should be. Federal district courts may be in Texas, but they are not of Texas.

Keywords: Court of Appeals for the Fifth Circuit, Erie doctrine, Texas Supreme Court, jurisdictional questions, procedural questions, substantive questions, insurance-related cases, insurance conflict questions, Willy Rice, forum selection, insurance coverage disputes.