

PUBLISH

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 96-2794

D.C. Docket No. 94-1646-CIV-T-24C

WEST AMERICAN INSURANCE COMPANY, a foreign
corporation,

Plaintiff-Appellee,

versus

BAND & DESEMBERG, a Florida Partnership,

Defendant-Appellant,

MARILYN PARKHURST, MARLENE GREEN, SHARON
REILLY, SUSAN ANDERSON,

Defendants.

Appeal from the United States District Court for the
Middle District of Florida

(April 17, 1998)

Before CARNES, Circuit Judge, CLARK and CAMPBELL*, Senior Circuit Judges.

CLARK, Senior Circuit Judge:

*Honorable Levin H. Campbell, Senior U.S. Circuit Judge for the First Circuit, sitting by
designation.

This is an appeal from the district court's order granting the plaintiff's motion for summary judgment in an insurance declaratory judgment action. The district court's order, published at 925 F.Supp. 758 (M.D. Fla.1996), contains a concise presentation of the facts and an excellent discussion of the law, but noted that Florida law was not settled on the interpretation of an absolute pollution exclusion. Since the district court's opinion was issued, the Florida Supreme Court decided Deni Associates of Florida, Inc. v. State Farm Fire & Cas. Ins. Co.,¹ and ruled that two pollution exclusion clauses nearly identical to the pollution exclusion clause in this case presented no ambiguities.² Based on that opinion, we hold that the pollution exclusion clause at issue here is not ambiguous, and AFFIRM the district court's grant of summary judgment to the plaintiff.

¹ Deni Associates of Florida, Inc. v. State Farm Fire & Cas. Ins. Co., ____ So.2d ____ (1998).

² Id. at ____.