

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40904

DERREL A. BAKER; ET AL.,

Plaintiffs,

DERREL A. BAKER; PHILIP H. BISHOP;
REBECCA DAVIS; TERRY EDWARDS; GAY
PATRICK; JOHN PERRIN; KIRDES SCHUBERT, JR.;
BETTY SHARPLIN; CAROL HERZIG, wife of
Darrell Herzig deceased,

Plaintiffs-Appellants,

versus

KERR-MCGEE CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:00-CV-103

August 15, 2002

Before JOLLY, DUHÉ, and DENNIS, Circuit Judges.

PER CURIAM:*

In this case, the plaintiffs have failed to produce any competent evidence showing that, at the time they opted to take early retirement, a merger between Oryx and Kerr-McGee was under consideration or that any substantive discussion had occurred between the parties. Consequently, no duty to inform the

* 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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

plaintiffs of the merger arose under ERISA, and the district court properly granted summary judgment in favor of Kerr-McGee on the plaintiffs' ERISA claims. In addition, we find no abuse of discretion in the denial of the plaintiffs' motions to compel production of documents or their related motion for a continuance under Fed. R. Civ. P. 56(f). Accordingly, the judgment of the district court is

AFFIRMED.