

**FILED**

October 14, 2004

Charles R. Fulbruge III  
Clerk

**UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT**

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No. 03-21114

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PLANTOWSKY FAMILY LIMITED PARTNERSHIP, by and through its general partner, PFLP Holdings Inc,

Plaintiff - Appellant,

versus

FREDRIC R HERBERT; JEFFREY M RUBIN; SCOTT H SMITH,

Defendants - Appellees.

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Appeal from the United States District Court  
For the Southern District of Texas  
USDC No. H-02-CV-3179

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Before SMITH and GARZA, Circuit Judges, and VANCE\* , District Judge.

PER CURIAM:\*\*

We affirm the district court's judgment essentially for the reasons stated in its Order of October 1, 2003.

AFFIRMED.

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\*District Judge of the Eastern District of Louisiana, sitting by designation.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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