

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Nº 00-20992

JOHN M. O'QUINN; JULIE O'QUINN;
JOHN O'QUINN, P.C., A TEXAS PROFESSIONAL CORPORATION;
LORI HINTON, INDEPENDENT EXECUTRIX OF THE ESTATE OF ROBERT HINTON;
HINTON & COX; CARL D. SHAW; DEBORA HUSID; DENNIS REICH; CINDY REICH;
REICH & BINSTOCK, A TEXAS PARTNERSHIP;
STEPHANIE SHAPIRO, A SINGLE WOMAN;
SHAPIRO & WATSON, A TEXAS PARTNERSHIP,

Plaintiffs-Appellees,

VERSUS

WALTER L. HARVEY; DELORES HARVEY,

Defendants-Appellants.

Appeal from the United States District Court
for the Southern District of Texas
m H-99-CV-1959

November 27, 2001

Before SMITH and EMILIO M. GARZA, Circuit Judges, and CUMMINGS, District Judge.*

PER CURIAM:**

The defendants, Walter L. Harvey and Dolores Harvey, contend on appeal that the district court, sitting in Texas, erred in (1) refusing to dismiss or stay the action there pending resolution by a district court in Arizona (and now by the Ninth Circuit) of defendants' motion to vacate the arbitration award confirmed by the Texas court; (2) granting summary judgment confirming the arbitration award; (3) finding that the arbitration agreement provided for a mandatory forum selection clause; and (4) utilizing information outside the record. We have reviewed the briefs and applicable portions of the record and have heard the arguments of counsel.

We see no reversible error, so the summary judgment is AFFIRMED, primarily for the reasons given by the district court in its comprehensive order entered on September 22, 2000. As that court convincingly noted, defendants had agreed to arbitrate in Texas and did not object, in the Texas court, to the arbitration award. There is no injustice in this case; the parties got essentially what they had bargained for.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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