

FILED

October 3, 2003

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 03-60196
Summary Calendar

THOMAS W. BURKETT; JENNIFER BURKETT

Plaintiffs - Appellees

VERSUS

AMERICAN BANKERS INSURANCE CO.

Defendant - Appellant

Appeal from the United States District Court
For the Southern District of Mississippi, Jackson
4:02-CV-214-LN

Before DAVIS, EMILIO M. GARZA and PRADO, Circuit Judges.

PER CURIAM:*

For reasons assigned by the district court in its memorandum opinion and order of February 14, 2003, we agree that appellant, American Bankers, failed to demonstrate that the parties agreed to arbitrate the dispute presented in this action.

American Bankers seeks to invoke the arbitration clause in 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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

lending agreement between one of appellees and GreenPoint Credit Corporation (GreenPoint). American Bankers was not a signatory to the lending agreement and for reasons explained by the district court none of the exceptional circumstances are present here that would permit American Bankers to enjoy the benefit of the arbitration clause included in that agreement.

We, therefore, AFFIRM the district court's order denying American Bankers' motion to compel arbitration.

AFFIRMED.