

December 13, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-30749
Summary Calendar

TERRY HOLLOWELL; JILL HOLLOWELL

Plaintiff-Appellants

versus

KAISER ALUMINUM AND CHEMICAL CORPORATION

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:04-CV-10-K

Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Terry Hollowell and Jill Hollowell (hereinafter Plaintiffs) filed suit in the district court of the Parish of St. James, Louisiana against Terry Hollowell's employer, Kaiser Aluminum and Chemical Corporation (hereinafter Defendant) seeking recovery of damages for injuries sustained by Terry Hollowell on December 27, 2002 when he fell approximately forty feet from the top of a facility he was working on during the course of his employment by Defendant and sustained serious and permanent injuries as a result.

*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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 assert that these injuries were the result of intentional acts of Defendant and therefore constitute an exception to the provisions of the Louisiana Workmen's Compensation Act. Defendant removed the case to the U.S. District Court for the Eastern District of Louisiana on diversity of citizenship and moved for summary judgment on the grounds that Plaintiffs's exclusive remedy against Defendant was under the Louisiana Workmen's Compensation Act. The district court granted the motion for summary judgment and Plaintiffs appeal.

We have carefully reviewed the briefs and the record excerpts and for the reasons stated by the district court in its order filed under date of June 30, 2004, we affirm the judgment entered by the district court under date of June 30, 2004, dismissing with prejudice Plaintiffs' claims. AFFIRMED.