

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 93-2399  
Summary Calendar

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In the matter of:

TEXAS GENERAL PETROLEUM CORPORATION, ET AL,  
Debtor.

STRATA ENERGY, INC.,

Appellee,  
Cross-Appellant,

VERSUS

STEVEN A. LEYH, Trustee for the  
Liquidating Estate of Texas General Petroleum Corporation,

Appellant,  
Cross-Appellee,

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Appeals from the United States District Court  
for the Southern District of Texas  
(CA-H-92-1453)

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(January 12, 1994)

Before GARWOOD, DAVIS, and DUHÉ, Circuit Judges.

DUHÉ Circuit Judge.<sup>1</sup>

The interplay of Federal Rules of Civil Procedure 17(a) and 25(c) is raised by this appeal from the district court's reversal of the bankruptcy court's dismissal for lack of standing of a creditor's adversary proceeding.

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<sup>1</sup> Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Strata Energy, Inc., a non-operator working interest owner in certain state mineral leases offshore Louisiana, sued Texas General Petroleum Corp., the operator of the leases, (now in bankruptcy), alleging fraud, mismanagement and misapplication of funds. Strata then conveyed its interest in the leases and in the adversary proceeding to National Resource Management Corp., but continued to prosecute the suit in its own name. The adversary proceeding was tried in the bankruptcy court. Years later the bankruptcy court dismissed the proceeding holding that, because Strata had sold its interest in the leases and the lawsuit, it lacked standing to proceed with the suit. The bankruptcy court found that the evidence did not show that National Resource Management agreed for Strata to prosecute the suit under Rule 17(c) (Bankruptcy Rule 7017). This rule requires actions be prosecuted in the name of the real party at interest. The bankruptcy court found that Strata was not the real party at interest following the sale to National Resource Management.

On appeal, the district court reversed. She found no error in the bankruptcy court's findings of fact, but entertained Strata's argument based on Rule 25(c) which Strata had not presented to the bankruptcy court. Rule 25(c) provides that an action once begun may be continued by the original party unless the court, upon motion, orders substitution or joinder. Since no such motion was made, and relying upon our opinion in Veverica v. Drill Barge Buccaneer No. 7, 488 F.2d 880, 886-87 (5th Cir. 1974), two district court cases and Professors Wright, Miller, and Kane, she reversed

the bankruptcy court.

Having carefully reviewed the record and the briefs of the parties we affirm the district court for the reasons set out in her Memorandum and Order dated April 8, 1993.

AFFIRMED.