

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 93-7694
Summary Calendar

KEITH A. EATON and
D. NICHOLAS DE VERTEUIL,
Individually and on behalf of all others
similarly situated,

Plaintiffs-Appellants,

VERSUS

PENNZOIL COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas

(G 92 CV 632)

(April 25, 1994)

Before GARWOOD, SMITH and DeMOSS, Circuit Judges.

PER CURIAM:*

Eaton and Verteuil filed suit against their former employer, Pennzoil, for breach of contract, breach of fiduciary duty and fraud. The suit arises out of Pennzoil's decision to exclude the

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

value of the \$3,500,000,000 settlement it received from the historic Pennzoil Company v. Texaco, Inc. litigation in determining awards to the employee participants in Pennzoil's Book Value Unit Award Program (the "Program"). Pennzoil moved for summary judgment, and the district court granted such motion and entered final judgment in favor of Pennzoil. We have carefully reviewed the briefs, the reply brief, the record excerpts and relevant portions of the record itself. For the reason stated by the district court in its order entered October 5, 1993 granting Pennzoil's motion for summary judgment, we are satisfied that no genuine issue of fact was raised by the summary judgment evidence regarding any lack of good faith on the part of the Compensation Committee and the Board of Directors of Pennzoil in exercising the broad discretion granted to them under the terms of the Program; and that therefore summary judgment was appropriate.

Accordingly, we AFFIRM the final judgment entered on October 5, 1993 by the district court.