

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 16-20679

United States Court of Appeals
Fifth Circuit

FILED

November 2, 2017

Lyle W. Cayce
Clerk

ROGER CONNELL; RICHARD ASHCROFT,

Plaintiffs - Appellants

v.

WELLS FARGO & COMPANY; WELLS FARGO ADVISORS, L.L.C.; DOES
1-50,

Defendants - Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:15-CV-2841

Before DAVIS, GRAVES, and COSTA, Circuit Judges.

PER CURIAM:*

Roger Connell and Richard Ashcroft appeal the district court's dismissal of their diversity action against Wells Fargo based on a forfeiture provision of a deferred compensation plan. The action was dismissed under Rule 12(b)(6) for "failure to state a claim upon which relief can be granted" on the basis that the plan contained a North Carolina choice-of-law provision which allowed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-20679

forfeiture under the terms to which the parties agreed. *See* Fed. R. Civ. P. 12(b)(6). The district court granted the dismissal with prejudice, finding that the parties' choice of North Carolina law governed and that the forfeiture provision is valid and enforceable. This court has considered this appeal on the basis of the briefs, the record, and oral argument. Having done so, we conclude that the matter should be affirmed, essentially for the reasons stated by the district court. Because the district court did not err, we **AFFIRM**. All outstanding motions are **DENIED**.