

United States Court of Appeals
Fifth Circuit

FILED

May 30, 2007

Charles R. Fulbruge III
Clerk

**UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT**

No. 05-20824

IN RE: TRI-UNION DEVELOPMENT CORP.

Debtor.

ARCH W. HELTON; HELTON PROPERTIES, INC.

Appellants,

versus

TRI-UNION DEVELOPMENT CORPORATION,

Appellee.

Appeal from the United States District Court
For the Southern District of Texas
No. 4:04-CV-2013

Before GARWOOD, BARKSDALE, and GARZA, Circuit Judges.

PER CURIAM:*

* Pursuant to Fifth Circuit Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Fifth Circuit Rule 47.5.4.

After reviewing the record in this case and considering the briefs of the parties and arguments of counsel, we affirm the District Court's Judgment essentially for the reasons stated in its Order dated July 29, 2005. The Bankruptcy Court correctly concluded, and the District Court correctly affirmed, that summary judgment should be granted to Tri-Union Development Corp. on the Appellants' claims of drainage on the 7900' sand, underpayment of royalties or working interest payments on the 8100' sand, and underpayment of royalties or working interest payments on the 8550' sand. As a result, the Appellants are not entitled to an award of attorneys' fees and costs.

AFFIRMED.