

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

July 22, 2008

No. 07-20765

Charles R. Fulbruge III
Clerk

NATIONAL CONTRACTING COMPANY, LTD

Plaintiff - Appellant

v.

KELLOGG, BROWN & ROOT INTERNATIONAL, INC.

Defendant - Appellee

Appeal from the United States District Court
for the Southern District of Texas, Houston
No. 4:06-CV-2942

Before HIGGINBOTHAM, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:*

We have carefully reviewed the record and considered the briefs of the parties and argument of counsel. Essentially for the reasons stated by the district court in its careful Memorandum Opinion and Order of February 6, 2007, we agree with that court that Change Order 10 to the contract between the parties is unambiguous and precludes appellant's claim for lease payments after appellant is notified that a leased asset has been lost or destroyed.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We also agree with the district court's analysis rejecting appellant's alternative claim based on fraudulent inducement, mutual mistake and breach of the duty of good faith and fair dealing. Finally, the equitable adjustment issue raised by appellant is without merit.

We, therefore, AFFIRM the judgment of the district court.

AFFIRMED.