UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20709
Summary Calendar

KELLER WILLIAMS REALTY SOUTHWEST; DEBBIE MILLER,

Plaintiffs-Appellants,

versus

CHRYSLER FIRST BUSINESS CREDIT CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
(H-98-CV-4268)

January 9, 2001

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Concerning the cross-motions for summary judgment in their action for breach of a commercial real estate listing agreement, Keller Williams Realty Southwest and Debbie Miller appeal the judgment granted Chrysler First Business Credit Corporation, contending the district court: erred by basing the judgment on an unasserted affirmative defense; erred by denying them summary judgment on their breach of contract claim on the ground it was *not*

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

pleaded in the original complaint; and abused its discretion by denying leave to amend.

Based upon our *de novo* review of the record and our review of the briefs, we **AFFIRM**, essentially for the reasons stated in the magistrate judge's well-reasoned opinion. ***Keller Williams Realty Southwest, et al. v. Chrysler First Business Credit Corp.***, No. H-98-4268 (S.D. Tex. 13 July 2000) (unpublished).

AFFIRMED