

FILED

February 6, 2007

Charles R. Fulbruge III
Clerk

**UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT**

No. 06-20628

(Summary Calendar)

SLC LAND AND CATTLE; SLC TRUST,

Plaintiffs - Appellants,

versus

US DEPARTMENT OF AGRICULTURE; FARM SERVICES AGENCY,

Defendants - Appellees.

Appeal from the United States District Court
For the Southern District of Texas
USDC No. 4:06-CV-745

Before KING, HIGGINBOTHAM and GARZA, Circuit Judges.

PER CURIAM:*

SLC Land and Cattle and SLC Trust (collectively, "SLC") appeal the district court's grant of summary judgment in favor of the U.S. Department of Agriculture and Farm Services Agency, (collectively, "Appellees"). SLC argues that the district court violated Rule 56(c)'s ten-day notice

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

requirement by only giving SLC two days to respond to Appellees' motion for summary judgment.

Rule 56 of the Federal Rules of Civil Procedure allows a party responding to a motion for summary judgment ten days to present argument and evidence in opposition to the motion. FED. R. CIV. P. 56(c). We strictly enforce Rule 56(c)'s ten-day notice requirement. *See Powell v. United States*, 849 F.2d 1576, 1579 (5th Cir. 1988); *see also Leatherman v. Tarrant County Narcotics Intelligence & Coordination Unit*, 28 F.3d 1388, 1397-98 (5th Cir. 1994). Nevertheless, we apply the harmless error doctrine to "lack of notice required by Rule 56(c)." *Powell*, 849 F.2d at 1580. Error in notice is harmless "if the nonmovant has no additional evidence or if all of the nonmovant's additional evidence is reviewed by the appellate court and none of the evidence presents a genuine issue of material fact." *Resolution Trust Corp. v. Sharif-Munir-Davidson Dev. Corp.*, 992 F.2d 1398, 1403 (5th Cir. 1993).

Even assuming that SLC did not consent to the district court's truncation of the notice period, SLC does not point to any additional evidence or legal arguments that it would have introduced had the district court fully complied with Rule 56(c). Therefore, the error in notice was harmless and not reversible.

AFFIRMED.