

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 95-11205
Summary Calendar

GARY GARBER; LADONA GARBER,
Plaintiffs-Counter Defendants-Appellants,
VERSUS
SIR SPEEDY, INC.,
Defendant-Counter Claimant-Appellee.

Appeal from the United States District Court
For the Northern District of Texas
(3:95-CV-2091)

May 27, 1996

Before HIGGINBOTHAM, DUHÉ and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:¹

Appellants first sued Appellee in this contract dispute in 1991 in Nacogdoches County, Texas. Since that time the matter has been before five different courts in one form or another. Before this court Appellants complain of the stay of further federal proceedings entered by the district court. We affirm.

Appellants argue that: There is no parallel state court proceeding because that proceeding is stayed pending arbitration called for by the contract. If pending, the state court proceeding

¹Pursuant to Local Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

and this federal proceeding are not identical. The district court erred in its application and analysis of the factors in River Water Conservation District v. United States, 424 U.S. 800 (1976), and Moses Cone Memorial Hospital v. Mercury Construction Corp., 460 U.S. 1 (1983). The district court should not have considered the federal interest in arbitration. None of these arguments is persuasive. The district court carefully analyzed the facts and the law and we see no error committed by it. Accordingly we affirm largely for the reasons articulated by the district court.

AFFIRMED.