

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

OCT 7 1998

PATRICK FISHER
Clerk

JEFFREY THOMSON and
NATHALIE THOMSON,

Plaintiffs-Appellants,

v.

SCHLUMBERGER WELL
SERVICES, a division of
Schlumberger Technology
Corporation,

Defendant-Appellee.

No. 97-6406
(D.C. No. CIV-96-1409-T)
(W.D. Okla.)

ORDER AND JUDGMENT *

Before **BRORBY** , **McKAY** , and **BRISCOE** , Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiffs appeal the district court's orders granting defendant summary judgment on their claims stemming from the termination of plaintiffs' employment. Plaintiff Nathalie Thomson asserted a claim for sex discrimination under Title VII, see 42 U.S.C. §§ 2000e to 2000e-17, and Oklahoma state law claims for breach of contract, fraud, and intentional infliction of emotional distress. Plaintiff Jeffrey Thomson asserted an Oklahoma state law claim for fraud.

Summary judgment is appropriate only if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. See Fed. R. Civ. P. 56(c). This court reviews the district court's summary judgment determination de novo, viewing the record in the light most favorable to the nonmoving party. See Byers v. City of Albuquerque, 150 F.3d 1271, 1274 (10th Cir. 1998). Upon review of the record and the parties' briefs, ¹ we affirm

¹ Appellee's motion to strike appellants' reply brief is granted to the extent that appellants have attached to that brief evidence that was not before the district court. See John Hancock Mut. Life Ins. Co. v. Weisman, 27 F.3d 500, 506 (10th Cir. 1994).

the district court's decisions for substantially the reasons stated in that court's orders dated October 22, 1997. ²

The judgment of the United States District Court for the Western District of Oklahoma is, therefore, AFFIRMED.

Entered for the Court

Monroe G. McKay
Circuit Judge

² Appellants have notified this court that they have filed for Chapter 7 bankruptcy relief. Those proceedings, however, do not preclude our resolution of this appeal. See Mason v. Oklahoma Turnpike Auth., 115 F.3d 1442, 1449-50 (10th Cir. 1997).