

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-60018  
Summary Calendar

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WANDA SCOTT,

Plaintiff-Appellant,

versus

POLY-TECH, INCORPORATED EMPLOYEE  
HEALTH PLAN,

Defendant-Appellee.

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Appeal from the United States District Court for  
the Northern District of Mississippi  
(USDC No. 1:98-CV-182-D-D)

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September 29, 2000

Before REAVLEY, JOLLY and JONES, Circuit Judges.

PER CURIAM:\*

Wanda Scott's appeal first contends that a failure to meet ERISA's disclosure requirements served to reform or modify her employer's health insurance plan as it

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

pertains to her. This is not a remedy allowed against the plan, and the plan administrator is responsible for noncompliance with ERISA procedures. *See* 29 U.S.C. §§ 1024(b)(1), 1132(c)(1).

In the alternative, Scott argues that her employer's insurance plan is estopped from excluding coverage for her pre-existing conditions in contradiction of oral representations made by her employer. But this circuit refuses to recognize estoppel claims based on oral statements in cases where ERISA preempts state law. *See Rodrigue v. Western & S. Life Ins. Co.*, 948 F.2d 969, 971 (5th Cir. 1991). Because this is such a case, Scott's estoppel claim also fails.

Although the circumstances of this case present a compelling and unfortunate story, we must agree with the district court that neither claim can succeed as a matter of law.

**AFFIRMED.**