

**F I L E D**

August 12, 2003

Charles R. Fulbruge III  
Clerk

**UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT**

\_\_\_\_\_  
No. 02-11080  
\_\_\_\_\_

LORI LEMMER, On Behalf of Herself and All Others Similarly  
Situated,

Plaintiff - Appellant,

versus

NU-KOTE HOLDING, INC; ET AL,

Defendants,

DAVID F BRIGANTE; DANIEL M KERRANE; ANTHONY G  
SCHMECK,

Defendants - Appellees.

\_\_\_\_\_  
Appeal from the United States District Court  
For the Northern District of Texas  
3:98-CV-161-L  
\_\_\_\_\_

Before EMILIO M. GARZA and DENNIS, Circuit Judges, and VANCE,\* District Judge.

PER CURIAM:\*\*

\_\_\_\_\_  
\* District Judge of the Eastern District of Louisiana, sitting by designation.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We hold the district court did not abuse its discretion in dismissing the underlying case with prejudice. *See Goldstein v. MCI Worldcom*, \_\_\_ F.3d \_\_\_, 2003 WL 21738963 (5th Cir. July 28, 2003); *Rosenzweig v. Azurix Corp.*, 332 F.3d 854 (5th Cir. 2003).

AFFIRMED.