

January 7, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-30679  
Summary Calendar

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JAMES K. HARRIS, Executor of the Estate  
of Jennifer Harris,

Plaintiff-Appellee,

versus

GAMBLE GUEST CARE CORP.; GAMBLE GUEST  
CARE CORP. EMPLOYEE BENEFIT PLAN; EMPLOYEE  
BENEFITS SERVICES, INC.,

Defendants-Appellants.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 5:01-CV-264  
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Before JONES, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Gamble Guest Care Corporation ("Gamble"), Gamble Guest Care Corporation Employee Benefit Plan ("Plan"), and Employee Benefits Services, Inc., appeal the district court's ruling in favor of Jennifer Harris on her claim for health benefits from an Employee Retirement Income Security Act of 1974 ("ERISA") governed employee welfare benefit plan; 29 U.S.C. § 1001 et seq. This

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court reviews Gamble's denial of Harris's claim for benefits for abuse of discretion. See Threadgill v. Prudential Securities Group, Inc., 145 F.3d 286, 292 (5th Cir. 1998).

The appellants argue that their interpretation of the Plan to require Harris to be "actively at work" on February 1, 2000, was legally correct. However, their interpretation of the Plan was legally incorrect because the Plan did not contain an "actively at work" requirement and because the correct eligibility date was January 1, 2000. See Wildbur v. ARCO Chemical Co., 974 F.2d 631, 637-38 (5th Cir. 1992). Furthermore, Gamble's interpretation of the Plan and its denial of benefits to Harris were an abuse of discretion. See id.

The appellants also argue that the district court should not have awarded Harris attorneys' fees. However, the district court did not abuse its discretion in awarding Harris attorneys' fees. See Iron Workers Local No. 272 v. Bowen, 624 F.2d 1255, 1266 (5th Cir. 1980).

Therefore, the district court's ruling in favor of Harris and its award of attorneys' fees to Harris are AFFIRMED.