

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 00-51051
Summary Calendar

MARIA CAMACHO CASTRUITA,

Plaintiff-Appellant,

VERSUS

THE ARBORETUM GROUP, INC.,

Defendant-Appellee.

No. 00-51096
Summary Calendar

MARIA CAMACHO CASTRUITA,

Plaintiff-Appellee,

VERSUS

THE ARBORETUM GROUP, INC.,

Defendant-Appellant.

Appeals from the United States District Court
For the Western District of Texas

(A-00-CV-60-JN)

June 14, 2001

Before JOLLY, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

This is a suit between an employee/plaintiff, Maria Camacho Castruita ("Castruita"), and her employer/defendant, The Arboretum Group, Inc. ("Arboretum"), over benefits and remedies over an occupational injury sustained by Castruita during the course of her employment by Arboretum. When she started to work at Arboretum, Castruita voluntarily elected to participate in Arboretum's ERISA-Qualified Occupational Injury Benefit Plan (the "Plan") which contained a waiver of her common law right to suit in exchange for eligibility under the Plan. Subsequently, Castruita sustained an injury and made claim for, accepted, and retained benefits under the Plan. Thereafter, she sued Arboretum in state court on a common law negligence claim. Arboretum answered claiming peremption under ERISA and removed to federal court. Both sides moved for summary judgment and their motions were referred to the magistrate judge for report and recommendation. Both parties filed motions for sanctions against the other party and such motions were also referred to the magistrate judge for report and

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

recommendation. After de novo review of the magistrate's report and recommendations, the district judge granted summary judgment in favor of Arboretum and denied Arboretum's motion for sanctions but granted Castruita's motion for sanctions in the amount of \$500. Castruita filed a timely notice of appeal as to the grant of summary judgment in favor of Arboretum (No. 00-51051) and Arboretum filed a notice of appeal as to the grant of sanctions in favor of Castruita (No. 00-51096). Both appeals were consolidated by agreement in this Court.

We have carefully reviewed the briefs, the record excerpts, the reply briefs, and relevant portions of the record in each appeal. For the reasons stated by the magistrate judge in his report and recommendations, which were adopted by the district judge, we affirm the final judgment entered in this case by the district court.

AFFIRMED.