

FILED

September 22, 2003

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-61079

ANDREW CARL WEATHERSBY,

Plaintiff-Appellee,

v.

COOPER LIGHTING, INC.,

Defendant-Appellant.

Appeal from the United States District Court for the
Southern District of Mississippi, Jackson

Before BARKSDALE, DEMOSS, and BENAVIDES, Circuit Judges.

BENAVIDES, Circuit Judge:*

Appellant Cooper Lighting, Inc. levies a barrage of attacks assailing the district court's award of monetary relief to Andrew Carl Weathersby in his action under the Family and Medical Leave Act ("FMLA"). The award stems from the second jury trial on Weathersby's claims. Unfortunately, we are precluded from ruling on appellant's appeal. Weatherby's claims before the district court also included a claim for reinstatement. The district court

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

has yet to rule on such claim. The judgment appealed from does not resolve all of Weatherby's claims against Cooper and is not an appealable final judgment. See 28 U.S.C. § 1291 (1999); *Witherspoon v. White*, 111 F.3d 399, 402 (5th Cir. 1997). Neither does this case present us with the type of partial final judgment that might allow us to entertain this appeal under Fed.R.Civ.P. 54(b). Unless and until the district court rules on the claim for reinstatement, this court lacks jurisdiction to review the monetary award.

APPEAL DISMISSED.