

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 24, 2008

No. 07-31177
Summary Calendar

Charles R. Fulbruge III
Clerk

LEE BARTHELEMY; AARON LILLER; CLAUDE CALLAGAN; DARLENE
WILLIAMSON, on behalf of themselves and all others similarly situated;
RESOURCE INDEPENDENT LIVING

Plaintiffs - Appellees

v.

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS; FREDERICK
P CERISE, Secretary, Louisiana Department of Health and Hospitals

Defendants - Appellants

Appeal from the United States District Court
for the Eastern District of Louisiana
No. 2:00-CV-1083

Before SMITH, STEWART, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

This appeal is from an award of attorneys' fees after the State of Louisiana entered into a settlement agreement with class counsel for the Plaintiffs. Louisiana did not oppose class counsel's motion for fees. After the district court ordered Louisiana to pay the requested fees, Louisiana requested that the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

district court reconsider the award of fees, arguing that the Attorney General's office was the proper entity to litigate the matter and was never served the motion for fees.

The district court denied the motion for reconsideration, finding that class counsel had served notice on Louisiana's attorney of record and, two days after filing the motion for fees, also inquired whether the Attorney General's office needed to be served. There is evidence that Louisiana's counsel of record informed class counsel that an attorney for the Attorney General had already been assigned to respond to the motion and that the Attorney General's office was already in possession of the relevant documentation. The district court found that the initial motion for fees was unopposed and also had merit. Other than being unintentional, the district court concluded that Louisiana failed to provide any reason for its failure to respond to the motion.

The attorneys' fees awarded here were requested pursuant to 29 U.S.C. § 794a(b) and 42 U.S.C. § 12205; both sections provide the district court with discretion to award attorneys' fees. The district court's award of attorneys' fees and denial of Louisiana's motion for reconsideration are reviewed for an abuse of discretion. *DP Solutions, Inc. v. Rollins, Inc.*, 353 F.3d 421, 433 (5th Cir. 2003) (attorneys' fees); *Lincoln Gen. Ins. Co. v. De La Luz Garcia*, 501 F.3d 436, 442 (5th Cir. 2007) (reconsideration).

Class counsel's motion for fees included documentation such as detailed time and expense sheets, a survey of fee rates for Louisiana, a memorandum of law, and declarations of counsel in support of the requested fees. The district court did not abuse its discretion in awarding the requested fees nor in denying the motion for reconsideration.

The judgment is AFFIRMED.