

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-9525

ARTHUR KERN,

Plaintiff-Appellee
Cross-Appellant,

VERSUS

K-MART CORPORATION,

Defendant-Appellant
Cross-Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CA-87-4700 N)

(December 2, 1993)

Before VAN GRAAFEILAND,* SMITH, and WIENER, Circuit Judges.

PER CURIAM:**

Having reviewed the briefs, record, and argument of counsel, we conclude that the jury verdict in the first trial was not against the great weight of the evidence. There is no indication of error in the conduct of that trial, nor did the district court, in granting a new trial, state any special circumstances justifying the overriding of the jury verdict. Accordingly, the court abused

* Circuit Judge of the Second Circuit, sitting by designation.

** Local Rule 47.5.1 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that rule, the court has determined that this opinion should not be published.

its discretion in granting a new trial. Judgment is REVERSED and RENDERED in favor of K-Mart Corporation.