

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-1668  
Conference Calendar

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ANTHONY EUGENE GILL,

Plaintiff-Appellant,

versus

PESCOR PLASTICS, INC.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:93-CV-225-A  
- - - - -  
(March 24, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:\*

The district court dismissed Anthony Eugene Gill's suit against his former employer, Pescor Plastics, Inc. because the parties executed a Stipulation for Dismissal. Attached as Exhibit A to the Stipulation for Dismissal is a copy of a typewritten settlement agreement which unambiguously provided for the "full and final settlement of any claims any of the parties may have against the other in regard to any cause of action

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\*Local Rule 47.5 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

initiated by or on behalf of Plaintiff, Anthony Eugene Gill as to Defendant, Pescor Plastics, Inc." The document was signed by both parties.

Prior to entry of final judgment, Gill moved for summary judgment in which he argued that he had not agreed to dismiss his claims for compensatory and punitive damages. Gill attached to his motion a handwritten "Settlement Agreement." The document provides, in part, that Gill and Pescor's attorney,

do hereby attest and swear that any offer or agreement to settle in cause no. 4:93-CV-225-A is entered upon in good faith and full knowledge of all entitlements provided by the Fair Labor Standards Act. And both parties being of the opinion that the sum of \$1000.00 (one thousand) dollars is fair and just as payment of all liabilities of such Act. And all and any settlement, judgment, or application entered into this the 1st day of July, 1993 by the parties hereof is specifically intent [sic] upon the allegation of any and all violations of the Fair Labor Standards Act.

The words "of all liabilities of such Act" are struck through and initialed by Gill but not by Pescor's attorney.

The typewritten settlement agreement, dated one day after the handwritten settlement agreement, unequivocally and unambiguously reflects the intent of the parties to compromise and settle all of Gill's claims. Although the stipulation of dismissal fails to mention expressly the compromise of Gill's compensatory and punitive damage claims, any ambiguity was resolved by the attachment of the typewritten settlement agreement. The handwritten settlement agreement does not expressly reserve Gill's right to pursue the damage claims, and

the deletion of language settling "all liabilities" was not initialed by Pescor.

The instant appeal is frivolous. Gill is warned that the filing of frivolous appeals may subject him to monetary sanctions or other restrictions on his access to the courts. See Ferguson v. MBank Houston, N.A., 808 F.2d 358, 360 (5th Cir. 1986).

AFFIRMED.