

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3596  
Summary Calendar

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CHARLES E. LUCAS,  
Plaintiff-Appellee,  
versus  
TTT STEVEDORES,  
Defendant,  
LOUISIANA INSURANCE GUARANTY ASSOC.,  
Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
(CA-93-1677-F)

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(February 1, 1994)

Before GOLDBERG, JOLLY, and JONES, Circuit Judges.

PER CURIAM:<sup>1</sup>

This case arises out of a judgment rendered against the Louisiana Insurance Guaranty Association ("LIGA") under the Longshore & Harbor

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<sup>1</sup> 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Workers' Compensation Act (the "Act"), 33 U.S.C. §§ 918. The judgment in favor of the injured worker, Charles Lucas, has been disputed by LIGA on a variety of points. The appeal, however, fails to present any issues which are reviewable by this court or are so contrary to the law of this circuit as to merit reversal. Thus, we affirm.

Lucas was injured in 1980. In 1982, pursuant to an order issued by an Administrative Law Judge, Lucas was awarded compensation under the Act for a disability which became permanent on January 1, 1981. In 1986, the insurance company paying Lucas's compensation award, Midland Insurance, was liquidated and the responsibility for payment of Lucas' compensation was assumed by LIGA.

In 1990, this court in Phillips v. Marine Concrete Structures, Inc., 895 F.2d 1033 (5th Cir. 1990) (en banc) altered the rule for calculating cost of living adjustments under Section 10 (f) of the Act, repudiating our earlier decision in Holliday v. Todd Shipyards Corp., 654 F.2d 415 (5th Cir. 1981). LIGA proceeded to conclude that under this new rule, it had overcompensated Lucas by \$9,806.85. LIGA therefore suspended payment of Lucas's compensation until the overpayment was exhausted.

In response, Lucas filed an application for a Supplementary Default Order under section 18 (a) of the Act. 33 U.S.C. § 918 (a). After complying with all procedures required by this section, the acting District Director issued an order in favor of Lucas in the amount withheld by LIGA, plus penalties and interest. As authorized by section 18(a) of the act, Lucas filed a petition for final judgment with the district court. The district judge determined that all procedural

requirements under the act had been fulfilled and concluded the order was "in accordance with law." He therefore issued the requested judgment in favor of Lucas. LIGA now appeals.

LIGA's primary contention on appeal regards the retroactive application of the new rule announced by this court in Phillips. However, the scope of the district court's review in deciding whether to grant judgments on supplemental default orders is limited to ensuring that the District Director investigated the claimant's application, gave notice to the parties, and gave an opportunity for hearing. As long as these procedures are complied with, the supplemental order is "in accordance with law" and the claimant is entitled to a final judgment by the district court. See Abbott v. Louisiana Ins. Guaranty Assoc., 889 F.2d 626, 629 (5th Cir. 1989), cert. denied, 494 U.S. 1082, 110 S. Ct. 1813, 108 L. Ed. 2d 944 (1990).

The court in Abbott held that "the scope of review in section 18 (a) enforcement proceedings is limited to the lawfulness of the supplemental orders of default and does not include the procedural or substantive correctness of the underlying compensation orders." 889 F.2d at 630. Section 18 (a) is "intended to provide a `quick and inexpensive mechanism for the prompt enforcement of unpaid compensation awards. . .'" Id. at 629 (quoting Tidelands Marine Serv. v. Patterson, 719 F.2d 126, 129 (5th Cir. 1983)). Any complaints that LIGA has with the substance of the District Directors decision cannot not be raised in the present proceedings. LIGA must take up these issues with the Benefits Review Board ("BRB"). 33 U.S.C. § 921 (b)(3).

In this proceeding, LIGA has failed to demonstrate any defect

in the Director's compliance with the "lawfulness of compensation orders in section 18 (a) enforcement proceedings." Abbott 889 F.2d at 630. The district court's order should therefore be affirmed.

LIGA makes a second contention, arguing that the petition for judgment in this case was not made under section 18(a) which is exempt from the notice requirements of Federal Rule of Civil Procedure 4. Jourdan v. Equitable Equipment Co., 889 F.2d 637, 639. (5th Cir. 1989). Instead, LIGA argues that Lucas' petition to the district court was made pursuant to Rule 21 (d) which LIGA argues is not exempt from these notice requirements. Because the district court did not comply with the notice requirements of Fed. R. Civ. P. 4, LIGA contends that it has been deprived of due process.

However, petitions under Rule 21 (d) involve appeals of orders following final resolution by the BRB while petitions under Rule 18 (a) are invoked to collect defaulted payments. Lucas' motion in the instant case sought an enforcement order intended to recover a defaulted payment by LIGA. Thus, Lucas' motion was made under Rule 18 (a). Because under Rule 18 (a), the procedural requirements of Fed. R. Civ. P. 4 do not apply, LIGA has no complaint. The decision to grant Lucas' motion for judgment was therefore in compliance with the law in all respects.

In sum, the district court acted properly in granting Lucas' motion for final judgment and LIGA has failed to offer any basis on which a reasonable objection could be sustained. For these reasons, the district court's judgment is AFFIRMED.