

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 94-40404

FOREST HENRY SHIPES and WILLIE MCCOY,

Plaintiffs-Appellees,

versus

TRINITY INDUSTRIES,

Defendant-Appellant.

Appeal from the United States District Court for the
Eastern District of Texas
(6:80-CV-462)

(January 20, 1995)

Before HIGGINBOTHAM, SMITH and PARKER, Circuit Judges.

PER CURIAM*:

In 1980, Forest Henry Shipes ("Shipes") Shipes filed a class action race discrimination suit against Trinity Industries ("Trinity"), alleging that Trinity's all-white supervisory force had discriminated against the black hourly employees in decisions concerning job placement, promotions and layoffs. The bifurcated trial proceedings resulting in the district court's finding for the

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Pursuant to that Rule, the Court has determined that this opinion should not be published.

plaintiffs. Damages awarded included back pay in an amount exceeding \$3,000,000.00, injunctive relief and interim attorneys' fees. In a separate order, the court enhanced the attorneys' fees award by increasing the lodestar figure by eighty percent. Trinity appealed the judgment of the court.

On appeal, this Court affirmed the findings of the district court with respect to liability, calculation of damages and calculation of the lodestar figure.¹ The Court reversed the enhancement of the lodestar, finding that four out of the five *Johnson v. Georgia Highway Express*² factors were unsupported. The Court noted, however, that enhancement due to the results obtained might be warranted if the district court on remand were to provide detailed findings showing support by specific evidence.³

On remand, the district court found that the amount involved and the results obtained were exceptional. Following this Court's specific instructions, the district court determined that in the Tyler Division it was customary for attorneys to charge clients a premium when exceptional results are obtained, including injunctive relief. The court ordered the lodestar figure enhanced by one-third.

The district court followed the law of the case, by which we are bound, enunciated by this Court in the former panel's decision

¹ *Shipes v. Trinity Industries*, 987 F.2d 311 (5th Cir.), cert. denied, ___U.S.___, 114 S.Ct. 548, 126 L.Ed.2d 450 (1993).

² 488 F.2d 714 (5th Cir. 1974).

³ *Shipes*, 987 F.2d at 322 and n.9.

in this action. While Trinity asserts legal error, it does not challenge the district court's factual findings as clearly erroneous. Our review finds no reversible error. Therefore, the judgment of the district court is AFFIRMED.