

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

S)))))))))Q

No. 94-60238
Summary Calendar
S)))))))))Q

JIMMIE H. PEARSON,

Plaintiff-Appellant,

versus

NORTHWESTERN NATIONAL LIFE
INSURANCE CO.,

Defendant-Appellee.

S)))))))))Q

Appeal from the United States District Court for the
Southern District of Mississippi
(93-CV-4)

S)))))))))Q

(August 22, 1994)

Before GARWOOD, HIGGINBOTHAM and DAVIS, Circuit Judges.*

PER CURIAM:

We affirm, being generally in agreement with the district court's memorandum opinion. Removal was timely measured from the time of defendant's receipt of the complaint, here by service, as provided in 28 U.S.C. § 1446(b). Contrary to appellant's suggestion, jurisdiction was based on ERISA, not diversity. As to

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

the motion to amend, it was not filed until December 1, 1993, although the district court on May 27, 1993, had provided a July 1, 1993, deadline for motions to amend or to join additional parties; and, defendant had answered in February 1993, pointing out that it was not a proper defendant, as it was merely a non-fiduciary administrator of Louisiana Pacific Corporation's plan.

Appellant's briefs on appeal demonstrate no reversible error.

The judgment of the district court is

AFFIRMED.