

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 97-60454

JAMES BRADDOCK,

Plaintiff-Appellee,

versus

LEGGETT & PLATT,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Mississippi
(1:96-CV-29-D-D)

March 31, 1998

Before WIENER, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Leggett & Platt ("Leggett") appeals from a judgment in favor of James Braddock, awarding \$33,000 in compensatory damages and \$50,000 in punitive damages for discriminatory discharge in violation of the Americans with Disabilities Act of 1990 ("ADA"), Pub. L. No. 101-336, 104 Stat. 327, codified at 42 U.S.C. § 12101 et seq.

Because the district court has yet to rule on Braddock's timely filed Motion for Reinstatement or, Alternatively, for Front

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Pay—a matter intimately tied to the merits of Braddock’s claim and clearly “an element of [his] complete compensation”—Leggetts’ notice of appeal is “ineffective” pursuant to the Federal Rules of Appellate Procedure. See FED. R. APP. P. 4(a) (“A notice of appeal filed after . . . entry of the judgment but before disposition of [a motion to alter or amend the judgment under FED. R. CIV. P. 59] is ineffective to appeal from the . . . judgment . . . until the entry of the order disposing of the . . . outstanding [motion].”); *Osterneck v. Ernst & Whinney*, 489 U.S. 169, 175-76, 109 S. Ct. 987, 991-92, 103 L. Ed. 2d 146 (1989) (holding that motions involving “an element of [the] plaintiff’s complete compensation” and requiring the consideration of “matters encompassed within the merits of the underlying action,” such as whether a particular award is “necessary to compensate the plaintiff fully,” constitute a “motion to alter or amend the judgment under Rule 59(e)”) (internal quotation and alteration omitted).

The appeal is DISMISSED without prejudice.