

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-50435
Summary Calendar

URSULA GOMEZ; RUDY GOMEZ,

Plaintiffs-Appellants,

versus

NORTH AMERICAN VAN LINES, INC.; ET AL.,

Defendants,

NORTH AMERICAN VAN LINES, INC.; NORTH
AMERICAN VAN LINES OF TEXAS, INC.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-95-CV-295-F
- - - - -

May 5, 1999

Before DAVIS, DUHE', and PARKER, Circuit Judges.

PER CURIAM:*

Ursula Gomez and Rudy Gomez appeal the district court's grant of summary judgment and final judgment to North American Van Lines, Inc. and North American Van Lines of Texas, Inc. (herein after referred to collectively as NAVL). The Gomezes sued NAVL for damages relating to a shipment of their personal property from Germany to Texas. The district court based its

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

decision to grant summary judgment to NAVL on the finding that the parties had entered into a settlement agreement and an accord and satisfaction resolving the Gomezes' claims.

In their appellate briefs, the only pertinent argument the Gomezes raise is whether any agreement they made with NAVL should be nullified because the insurance policy they received as part of the settlement was worthless and was fraudulently obtained by NAVL. There is no record evidence to support this argument. The Gomezes' remaining arguments are waived for inadequate briefing or failure to raise the issue before the district court. See FED. R. APP. P. 28(a); Yohey v. Collins, 978 F.2d 222, 224-25 (5th Cir. 1995). Therefore, this appeal is DISMISSED as frivolous.

NAVL's request for fees and costs was not made by separate motion in accordance with FED. R. APP. P. 38 and is DENIED.

APPEAL DISMISSED.