

United States Court of Appeals for the Fifth Circuit

No. 25-20067
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 16, 2025

Lyle W. Cayce
Clerk

DENISE PAUL,

Plaintiff—Appellant,

versus

PEPPERIDGE FARM, INCORPORATED, *a Connecticut Corporation*
DOING BUSINESS IN CONNECTICUT,

Defendant—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:24-CV-4720

Before ELROD, *Chief Judge*, and SMITH and STEWART, *Circuit Judges*.

PER CURIAM:*

We have reviewed the briefing in this case and have found no error, let alone reversible error.

The district court appropriately granted the motion to dismiss, as Appellant failed to state a claim on which relief could be granted. *See* Fed. R.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 25-20067

Civ. P. 12(b)(6); *see also, e.g., N. Nat. Gas Co. v. Conoco, Inc.*, 986 S.W.2d 603, 607 (Tex. 1998) (promise of future action constitutes consideration). The district court did not err in dismissing the claims with prejudice, as the complaint was *futile* under well-established legal principles—as Appellant had already pled her best case, the district court did not abuse its discretion in preventing further suit. *Cf. Brewster v. Dretke*, 587 F.3d 764, 768 (5th Cir. 2009).

On the issue of timeliness, the district court correctly calculated the deadline for Appellant’s response under its own local rules and the Federal Rules of Civil Procedure. *See* Southern District of Texas Local Rules 7.3 and 7.4(a); Fed. R. Civ. P. 6(d); *Halicki v. Louisiana Casino Cruises, Inc.*, 151 F.3d 465, 467–468 (5th Cir. 1998) (three-day extension for type of service only applicable when deadline is based on date of service). The district court did not abuse its discretion in denying Appellant’s motion for an extension of time. *See* Fed. R. Civ. P. 6(b); *L.A. Pub. Ins. Adjusters, Inc. v. Nelson*, 17 F.4th 521, 524 (5th Cir. 2021).

AFFIRMED.