

RICHARD RALSER

NO. 14-CA-91

VERSUS

FIFTH CIRCUIT

WINN DIXIE

COURT OF APPEAL

STATE OF LOUISIANA

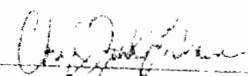
ON APPEAL FROM THE OFFICE OF WORKERS' COMPENSATION,  
DISTRICT 6  
STATE OF LOUISIANA  
NO. 12-5905  
HONORABLE GWENDOLYN F. THOMPSON, JUDGE PRESIDING

SEPTEMBER 24, 2014

COURT OF APPEAL  
FIFTH CIRCUIT

FILED SEP 24 2014

**STEPHEN J. WINDHORST**  
**JUDGE**

  
CLERK  
Cheryl Quirk Landreau

Panel composed of Judges Stephen J. Windhorst,  
Hans J. Liljeberg and Ellen Shirer Kovach, Pro Tempore

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**APPEAL DISMISSED**

SM  
EAK  
~~HP~~

Appellant, Richard Ralser, appeals from the workers' compensation court's judgment denying his motion to set aside settlement. For the reason discussed below, this appeal is dismissed.

On August 22, 2012, Mr. Ralser filed a disputed claim for compensation against Winn Dixie Montgomery, L.L.C. and Sedgwick CMS ("Winn Dixie"). Mr. Ralser claimed that he sustained injuries when he slipped and fell in a puddle on the floor of one of the store's shopping aisles. Winn Dixie denied that Mr. Ralser sustained a work related accident and injuries.

On May 14, 2013, the parties filed a joint petition for compromise. The parties stated that a *bona fide* dispute existed concerning all aspects of Mr. Ralser's claim and therefore, the parties agreed to settle the claim for \$15,000.00. The workers' compensation court signed the order approving the settlement on May 14, 2013.

On June 14, 2013, Mr. Ralser's counsel filed a motion to set aside the settlement arguing that Winn Dixie's knowledge of Mr. Ralser's federal claim pursuant to the Family Medical Leave Act ("FMLA") and its inclusion of language in the release and receipt dismissing all claims under state and federal law constituted misrepresentation or fraud. The motion further claimed that Winn Dixie's failure to notify Mr. Ralser's counsel and the workers' compensation court of Mr. Ralser's federal claim prior to the approval of the settlement constituted misrepresentation or fraud. On November 6, 2013, the motion to set aside settlement was denied. This appeal followed.

Subsequent to this appeal being submitted to this Court, the parties filed a Joint Motion to Dismiss contending that they jointly seek to dismiss this appeal because the federal court proceeding moots the instant appeal. Pursuant to La. C.C.P. art. 2162, an appeal can be dismissed by consent of all parties. Therefore, we grant the Joint Motion to Dismiss and dismiss this appeal.

**APPEAL DISMISSED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
ROBERT A. CHAISSON  
ROBERT M. MURPHY  
STEPHEN J. WINDHORST  
HANS J. LILJEBERG

JUDGES



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CHERYL Q. LANDRIEU  
CLERK OF COURT

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CHIEF DEPUTY CLERK

SUSAN BUCHHOLZ  
FIRST DEPUTY CLERK

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**NOTICE OF JUDGMENT AND  
CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **Uniform Rules - Court of Appeal, Rule 2-20** THIS DAY **SEPTEMBER 24, 2014** TO THE TRIAL JUDGE, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CHERYL Q. LANDRIEU  
CLERK OF COURT

**14-CA-91**

**E-NOTIFIED**

JACK E. TRUITT

**MAILED**

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