

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Moore v. BP Expl & Prod

No. 20-30689, United States Court of Appeals for the Fifth Circuit (November 3, 2021)

SUMMARY

In the Deepwater Horizon MDL, the Fifth Circuit affirmed dismissal with prejudice of plaintiffs' personal-injury claims for failing to comply with Pretrial Order 68, which required detailed medical history information. The court held that the district court did not abuse its discretion because there was a clear record of delay—plaintiffs gave inconsistent, noncompliant responses over seven months despite extensions—and lesser sanctions (a show-cause order) had already failed to induce compliance. The opinion reiterates that in the MDL context, no aggravating factors are required for dismissal with prejudice; the two-pronged test of clear delay and inadequacy of lesser sanctions suffices.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Clement; Haynes; Wilson
JURISDICTION	Federal
DECIDED	November 3, 2021
DOCKET	20-30689
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Eastern District of Louisiana, USDC No. 2:10-MD-2179. The district court dismissed plaintiffs' claims with prejudice for failure to comply with PTO 68.
STANDARD OF REVIEW	We review docket-management matters for an abuse of discretion. In <i>re Deepwater Horizon</i> (Barrera), 907 F.3d 232, 234 (5th Cir. 2018) (per curiam). A district court abuses its discretion when 'its ruling is based on an erroneous view of the law or a clearly erroneous assessment of the evidence.'
PRECEDENTIAL VALUE	published
PARTIES	Albert B. Moore, III; A'Donna Richardson; Rashawn White; Yen Do; Ellasha Galloway, for the minor child B.S.; Frances Roberts; George Pickett; Scott Porter v. BP Exploration & Production, Incorporated; BP America Production Company; BP, P.L.C.; Transocean Holdings,

L.L.C.; Transocean Deepwater, Incorporated; Transocean Offshore Deepwater Drilling, Incorporated; Halliburton Energy Services, Incorporated

TOPICS

civil procedure appellate procedure standard of review sanctions discovery dispute

PRACTICE AREAS

Civil Procedure Multidistrict Litigation Appellate Procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion in dismissing the plaintiffs' claims with prejudice for failure to comply with PTO 68.

HOLDINGS

1. The district court did not abuse its discretion because there was a clear record of delay by plaintiffs and lesser sanctions would not serve the interests of justice.

KEY QUOTATIONS

"We review docket-management matters for an abuse of discretion. In re Deepwater Horizon (Barrera), 907 F.3d 232, 234 (5th Cir. 2018) (per curiam). A district court abuses its discretion when 'its ruling is based on an erroneous view of the law or a clearly erroneous assessment of the evidence.'" (3)

"dismissal with prejudice is permissible here only when two conditions are satisfied: (1) there is 'a clear record of delay or contumacious conduct by the plaintiff' and (2) 'lesser sanctions would not serve the best interests of justice.'" (3)

"Receiving noncompliant filings is in many ways just as bad as receiving no filings at all." (5)

FACTUAL BACKGROUND

Plaintiffs are B3 plaintiffs in the Deepwater Horizon MDL, alleging personal injuries from exposure to the oil spill. They were required to comply with PTO 68, which required them to provide past and present information about their medical conditions. After requesting and receiving an extension, they responded with conflicting information: answering 'N/A' or 'Did not seek treatment' as to the past but indicating they were still receiving treatment. After multiple revisions, they still had inconsistencies. The district court issued a show cause order and after a hearing dismissed their claims with prejudice.

PROCEDURAL HISTORY

Plaintiffs appealed the district court's order dismissing their claims with prejudice. The district court had issued a show cause order and after a hearing found plaintiffs noncompliant with PTO 68 and dismissed.

DISPOSITION

affirmed

CASES CITED

- In re Deepwater Horizon (Barrera), 907 F.3d 232 (5th Cir. 2018)
- In re Taxotere (Docetaxel) Prods. Liab. Litig., 966 F.3d 351 (5th Cir. 2020)
- Rogers v. Kroger Co., 669 F.2d 317 (5th Cir. 1982)
- Moore v. CITGO Refin. & Chems. Co., L.P., 735 F.3d 309 (5th Cir. 2013)
- Areizaga v. ADW Corp., 314 F.R.D. 428 (N.D. Tex. 2016)
- McLeod, Alexander, Powel & Apffel, P.C. v. Quarles, 894 F.2d 1482 (5th Cir. 1990)
- In re Deepwater Horizon (Graham), 922 F.3d 660 (5th Cir. 2019)
- In re Deepwater Horizon (Cepeda), 765 F. App'x 980 (5th Cir. 2019)