

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Farm Construction Services, Inc. v. Stephen D. Fudge and Gail L. Fudge

9 Fed. R. Serv. 3d 329 (1st Cir. 1987) · No. No. 87-1032 · Decided October 15, 1987

SUMMARY

The First Circuit affirmed dismissal of Farm Construction Services, Inc.'s complaint as a discovery sanction under Federal Rule of Civil Procedure 37 for repeated failure to produce court-ordered documents. The court also held that sanctions could properly be imposed on the client, and that the plaintiff waived objections to technically improper removal by proceeding in federal court without objection.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Campbell, Chief Judge; Bownes, Circuit Judge; Torruella, Circuit Judge
JURISDICTION	Federal
DECIDED	October 15, 1987
DOCKET	No. 87-1032
DISPOSITION	affirmed
PROCEDURAL POSTURE	Farm Construction Services appealed the district court's dismissal of its complaint as a discovery sanction, the denial of relief from judgment and reconsideration, and the entry of final judgment after removal from state court. The appellees moved for summary disposition.
STANDARD OF REVIEW	Abuse of discretion for the imposition of discovery sanctions, including dismissal.
PRECEDENTIAL VALUE	Published opinion; precedential federal appellate decision
PARTIES	Farm Construction Services, Inc. v. Stephen D. Fudge, Gail L. Fudge

TOPICS

- sanctions
- discovery dispute
- subject matter jurisdiction
- appellate procedure
- breach of contract

PRACTICE AREAS

civil procedure

appellate procedure

construction law

contracts

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by dismissing Farm Construction's complaint for failure to comply with discovery orders.
2. Whether any discovery sanction should have been imposed against Farm Construction's counsel rather than against Farm Construction itself.
3. Whether the district court lacked authority to enter final judgment because the action had been technically improperly removed from state court.

HOLDINGS

1. The district court did not abuse its discretion by dismissing Farm Construction's complaint after Farm Construction repeatedly and intentionally refused to produce documents required by court orders.
2. The district court was not required to impose the discovery sanction solely against counsel; dismissal of the client's action was permissible for counsel's unexcused conduct.
3. The district court could enter final judgment despite the technical impropriety of removal because the parties had consented to federal litigation, Farm Construction waived its objection by proceeding without objection, and the federal court had original subject matter jurisdiction based on diversity.

FACTUAL BACKGROUND

Farm Construction agreed to assist the Fudges in constructing a stable and horse-training facility, and the Fudges counterclaimed for losses allegedly caused by Farm Construction's failure to perform as promised. During discovery, the Fudges requested documents including tax returns, corporate documents, and contracts. Despite repeated court orders compelling production and warning that noncompliance would result in sanctions, Farm Construction intentionally withheld the documents and continued to assert that they were irrelevant.

PROCEDURAL HISTORY

Farm Construction filed a Massachusetts state-court breach-of-contract action against the Fudges, who counterclaimed and removed the case to the District of Massachusetts based on diversity jurisdiction. After Farm Construction failed to produce documents ordered through discovery proceedings, the district court dismissed the complaint and entered judgment for the Fudges. The district court denied Farm Construction's motions for relief from judgment and reconsideration, and the First Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- *Damiani v. Rhode Island Hospital*, 704 F.2d 12 (1st Cir. 1983)

- National Hockey League v. Metropolitan Hockey Club, Inc., 427 U.S. 639, 96 S. Ct. 2778, 49 L. Ed. 2d 747 (1976)
- Link v. Wabash Railroad Co., 370 U.S. 626, 82 S. Ct. 1386, 8 L. Ed. 2d 734 (1962)
- Societe Internationale v. Rogers, 357 U.S. 197, 78 S. Ct. 1087, 2 L. Ed. 2d 1255 (1958)
- Corchado v. Puerto Rico Marine Management, Inc., 665 F.2d 410 (1st Cir. 1981), cert. denied, 459 U.S. 826 (1982)
- Pease v. Peters, 550 F.2d 698 (1st Cir. 1977)
- Handley-Mack Co. v. Godchaux, 2 F.2d 435 (6th Cir. 1924)
- Stromberg v. Costello, 456 F. Supp. 848 (D. Mass. 1978)
- Grubbs v. General Electric Credit Corp., 405 U.S. 699, 92 S. Ct. 1344, 31 L. Ed. 2d 612 (1972)

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