



2008 Decisions

Opinions of the United
States Court of Appeals
for the Third Circuit

1-15-2008

Zelenka v. NFI Ind Inc

Precedential or Non-Precedential: Non-Precedential

Docket No. 06-3650

Follow this and additional works at: http://digitalcommons.law.villanova.edu/thirdcircuit_2008

Recommended Citation

"Zelenka v. NFI Ind Inc" (2008). *2008 Decisions*. 1745.

http://digitalcommons.law.villanova.edu/thirdcircuit_2008/1745

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2008 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository. For more information, please contact Benjamin.Carlson@law.villanova.edu.

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-3650

DEANA L. ZELENKA,
In the Name of the United States of
America Pursuant to the False Claims
Act 31 U.S.C. Section 3730
Appellant

v.

NFI INDUSTRIES, INC.;
HONEYWELL INTERNATIONAL, INC.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(D.C. Civil No. 05-cv-00584)
District Judge: The Honorable Joseph E. Irenas

Argued: November 28, 2007

Before: BARRY, FUENTES and GARTH, Circuit Judges

(Opinion Filed: January 15, 2008)

Ross Begelman, Esq. (Argued)
Begelman & Orlow, P.C.
411 Route 70 East, Suite 245
Cherry Hill, NJ 08034

Counsel for Appellant Deana L. Zelenka, etc.
Steven I. Frank, Esq. (Argued)

United States Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Avenue
Washington, DC 20530

-AND-

Stuart A. Minkowitz, Esq.
Office of the United States Attorney
970 Broad Street, Room 700
Newark, NJ 07102

Counsel for Amicus-Appellant - USA

Justin Loughry, Esq. (Argued)
Lawrence W. Lindsay, Esq.
Loughry & Lindsay
330 Market Street
Camden, NJ 08102

Counsel for Appellee NFL Industries, Inc., et al

Kali Bracey, Esq. (Argued)
Julie M. Carpenter, Esq.
Jenner & Block
601 13th Street, N.W.
Suite 1200 South
Washington, DC 20005

-AND-

Peter J. Torricollo, Esq.
Gibbons
One Gateway Center
Newark, NJ 07102-5310

Counsel for Honeywell International, Inc.

OPINION

BARRY, Circuit Judge

Deana L. Zelenka appeals the July 6, 2006 order of the United States District Court for the District of New Jersey granting the motions to dismiss of appellees NFI Industries, Inc. and Honeywell International, Inc. Appellant raises two issues on appeal:

“1. Whether the lower court erred in granting the motion[s] to dismiss under Rule 12(b)(6) by misapplying the limited facts and competent evidence offered below in concluding plaintiff’s complaint did not allege a legal obligation that is clearly related to inspection fees and dismissed plaintiff’s claim.

2. Whether the lower court erred in finding that plaintiff’s complaint did not state a cause of action by failing to properly allege that an obligation had been avoided or decreased under the false claims act 31 U.S.C. § 3729(a)(7).”

Appellant’s Br. at 1.

We have reviewed the submissions of the parties and have heard oral argument.

We conclude that, substantially for the reasons set forth in the Opinion of the District Court, we will affirm.¹

¹ We do not decide whether, as the District Court appeared to assume, inspection fees have been and will be required.