

3:98CV-161-L

LORI LEMMER, On Behalf of Herself and All Others Similarly Situated

Plaintiff - Appellant

v.

NU-KOTE HOLDING, INC; ET AL

Defendants

DAVID F BRIGANTE; PATRICK E HOWARD; DANIEL M KERRANE; HANS PAFFHAUSEN; RICHARD C DRESDALE; JAMES H GROH; JOHN P ROCHON; C RONALD BAIOCCHI; BRIAN D FINN; HUBBARD C HOWE; ANTHONY G SCHMECK

Defendants - Appellees

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
NOV - 7 2002
CLERK, U.S. DISTRICT COURT
By _____ Deputy

ENTRY OF DISMISSAL

Pursuant to the agreed motion of the parties, Lori Lemmer and Hans Paffhausen, in the above appeal, that portion of the appeal of Lemmer v. Paffhausen is dismissed this 24th day of October, 2002, see FED. R. APP. P.42 (b) .

CHARLES R. FULBRUGE III
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: Trasnell McCoy
Trasnell McCoy, Deputy Clerk
FOR THE COURT - BY DIRECTION

DIS-4

A true copy
Test:
Clerk, U.S. Court of Appeals, Fifth Circuit
By: [Signature]
Deputy
New Orleans, Louisiana
OCT 24 2002

United States Court of Appeals

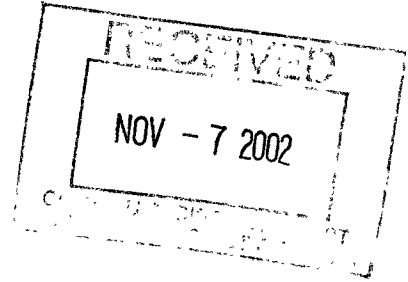
FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 CAMP STREET
NEW ORLEANS, LA 70130

October 24, 2002

Ms Karen S Mitchell, Clerk
Northern District of Texas, Dallas
United States District Court
1100 Commerce Street
Room 14A20
Dallas, TX 75242



No. 02-11080 Lemmer v. Nu-Kote Holding Inc
USDC No. 3:98-CV-161-L

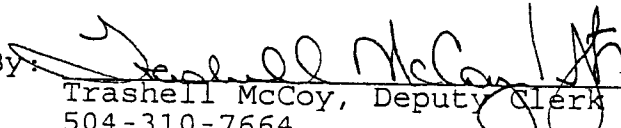
Enclosed is a certified copy of the judgment issued as the mandate for Hans Paffhausen.

The appeal of Lori Lemmer against David F Brigante, Patrick E Howard, Daniel M Kerrane, Richard C Dresdale, James H Groh, John P Rochon, C Ronald Baiocchi, Brian D Finn, Hubbard C Howe and Anthony G Schmeck remains pending.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By:


Trashell McCoy, Deputy Clerk
504-310-7664

Mr Joseph David Daley
Mr Anthony P Lalla
Mr Noel M Hensley
Ms Patricia J Villareal
Mr Micheal W Bishop
Mr Robert H Klonoff
Mr Sanford Svetcov

P.S. to Counsel: A revised copy of the caption is enclosed for future filings.

NO. 05-02-11080-CV

U.S. COURT OF APPEALS

FILED

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

OCT 21 2002

CHARLES R. FOLBERG, CLERK

LORI LEMMER, ET AL.,

Plaintiffs-Appellants,

v.

NU-KOTE HOLDING, INC., ET AL.,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of Texas, Dallas Division

**AGREED MOTION TO DISMISS APPEAL AS TO
DEFENDANT-APPELLEE HANS PAFFHAUSEN**

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**AGREED MOTION TO DISMISS APPEAL AS TO
DEFENDANT-APPELLEE HANS PAFFHAUSEN**

Lead Plaintiffs-Appellants Lori Lemmer, *et al.*, and Defendant-Appellee Hans Paffhausen hereby submit the following Agreed Motion to Dismiss Appeal as to Defendant-Appellee Hans Paffhausen, pursuant to Federal Rule of Appellate Procedure 42(b).

**I.
BACKGROUND FACTS**

On September 6, 2001, the District Court entered an Order and Judgment dismissing this action with prejudice in its entirety as to all Defendants, including Defendant Hans Paffhausen. The Lead Plaintiffs then timely filed a Motion Under Federal Rule of Civil Procedure 59(e) to Vacate the Judgment and Modify the District Court's September 6, 2001 Order, to which they attached a proposed First Amended Complaint. In their Motion to Vacate, the Lead Plaintiffs requested that the Court grant them leave to file the proposed First Amended Complaint, which did not name Hans Paffhausen as a Defendant in the lawsuit.

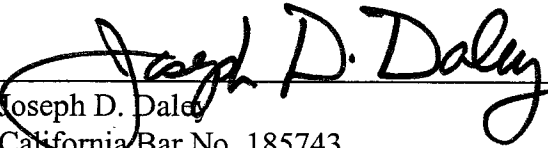
On August 14, 2002, the District Court denied the Lead Plaintiffs' Motion to Vacate. On September 10, 2002, the Lead Plaintiffs filed a Notice of Appeal from the District Court's September 6, 2001 Order and Judgment dismissing this action with prejudice, and its August 14, 2002 Order denying the Lead Plaintiffs' Motion to Vacate, as well as all other prior interlocutory orders. The Lead Plaintiffs did not intend to appeal the above-referenced Orders and Judgment with respect to Mr. Paffhausen.

**II.
DISMISSAL OF THIS APPEAL IS APPROPRIATE
AS TO DEFENDANT-APPELLEE HANS PAFFHAUSEN**

For the reasons set forth above, the parties hereby request that Defendant-Appellee Hans

Paffhausen be dismissed from this appeal. This Agreed Motion to Dismiss is submitted only as to Defendant-Appellee Hans Paffhausen and not as to any of the other Defendants-Appellees in this appeal. The parties to this motion agree to each bear their own costs.

Respectfully submitted,


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HANS PAFFHAUSEN

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served in accordance with the Federal Rules of Appellate Procedure, via certified mail, return receipt requested, on this 23rd day of October, 2002, to the following attorneys of record:

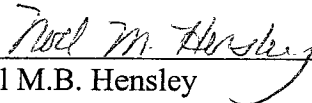
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