[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 21-12887

CRYSTAL N. LAMB,

Plaintiff-Appellee,

versus

CLAYTON COUNTY SCHOOLS,
d.b.a. Clayton County Public Schools,

Defendant,

CLAYTON COUNTY SCHOOL DISTRICT,

Defendant-Appellant.

Appeals from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:19-cv-00695-JSA

No. 21-14156

CRYSTAL N. LAMB,

Plaintiff-Appellee,

versus

CLAYTON COUNTY SCHOOLS,
d.b.a. Clayton County Public Schools,

Defendant,

CLAYTON COUNTY SCHOOL DISTRICT,

Defendant-Appellant.

Appeals from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:19-cv-00695-JSA

Before JORDAN, NEWSOM, and ED CARNES, Circuit Judges.

PER CURIAM:

A jury awarded Crystal Lamb $450,000—later reduced to $300,000—on her claims against the Clayton County School District for discrimination and retaliation under the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and the Rehabilitation Act, 29 U.S.C. § 794. After entering judgment on the jury verdict, the district court awarded Ms. Lamb attorney's fees and costs. The School District now appeals from the judgment on the jury verdict and the order awarding fees and costs.

Appeal No. 21-12887

Appeal No. 21-12887 is the School District's challenge to the judgment on the jury verdict. Because the issues that the School District raises are not reviewable on this record, we affirm.

First, the School District argues that the district court erred in not granting its motion for summary judgment. We do not address this argument because an order denying a summary judgment motion is unreviewable following a jury verdict. *See Ortiz v.*

Jordan, 562 U.S. 180, 184 (2011); *Lind v. United Parcel Serv., Inc.*, 254 F.3d 1281, 1286 (11th Cir. 2001).

Second, the School District contends (1) that the district court erred in denying its Rule 50(a) motion for judgment as a matter of law and (2) that the evidence did not support the jury's verdict. We do not have the authority to set aside the jury verdict, however, because the School District failed to file a post-verdict Rule 50(b) motion or a post-verdict Rule 59 motion. *See Unitherm Food Sys., Inc. v. Swift-Eckrich, Inc.*, 546 U.S. 394, 404 (2006); *St. Louis Condo. Ass'n v. Rockhill Ins. Co.*, 5 F.4th 1235, 1245-46 (11th Cir. 2021).

Appeal No. 21-14156

Appeal No. 21-14156 is the School District's challenge to the district court's award of attorney's fees and costs. We do not have jurisdiction to consider this challenge.

The order issued on November 9, 2021, in which the district court awarded a certain sum of fees and costs, was not final because it contemplated further calculation of additional fees. *See Morillo-Cedron v. Dist. Dir. for U.S. C.I.S.*, 452 F.3d 1254, 1256 (11th Cir. 2006) ("Where the amount of the fee award has not been determined, a district court order granting attorney's fees is not final.") (brackets, quotation marks, and citation omitted); *Mekdeci by and through Mekdeci v. Merrell Nat'l Labs.*, 711 F.2d 1510, 1523 (11th Cir. 1983) (order announcing intention to award costs was not final because district court had "yet to fix" the amount of costs). The

School District's notice of appeal from the November 9 order—dated November 19, 2021—was therefore ineffective.

The order awarding attorney's fees and costs was not final until January 3, 2022, when the district court issued another order determining the amount of interest. The School District was required to file a notice of appeal within 30 days of January 3, 2022, but it did not do so.[1]

The School District asserts that we have jurisdiction because the calculation of interest was a purely ministerial task, thereby making the November 9 order final. We disagree. The November 9 order was silent as to two important issues: (1) the rate of interest and (2) the date from which it was to be calculated. As a result the determination of the interest amount was not a ministerial task. *See S.E.C. v. Carrillo*, 325 F.3d 1268, 1272 (11th Cir. 2003) ("[I]f the judgment amount, the prejudgment interest rate, or the date from which prejudgment interest accrues is unclear, the calculation of prejudgment interest is no longer a ministerial act and the court's order is not final.").[2]

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[1] The School District's motion for a protective order regarding post-judgment discovery, filed on February 2, 2022, was not the functional equivalent of a notice of appeal.

[2] The School District's challenge is, in any event, meritless. The only argument the School District makes is that the district court improperly awarded fees and costs because it should have granted summary judgment in its favor

Ms. Lamb's Motion for Sanctions

Ms. Lamb has moved for sanctions under Rule 38 on the ground that the School District's appeals are frivolous. Rule 38 is discretionary, *see Burlington N. R. Co. v. Woods*, 480 U.S. 1, 7 (1987), and here we exercise our discretion to not sanction the School District. We have rejected the contention that the November 9, 2021, order awarding attorney's fees and costs was final, but the School District's argument that the computation of interest was a ministerial task was not legally frivolous. *Cf. Carrillo*, 325 F.3d at 1272 (explaining that "the calculation of an award of prejudgment interest may be . . . susceptible to a simple, ministerial arithmetic calculation" if the "judgment amount, the prejudgment interest rate, and the date from which interest accrues have been established").

AFFIRMED AS TO NO. 21-12887 AND DISMISSED AS TO NO. 21-14156.

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on the merits. That argument, as we have explained, is not cognizable on appeal following a jury verdict.