

NOT PRECEDENTIAL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)

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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.