

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 15-11470

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D.C. Docket No. 6:13-cv-01657-GAP-KRS

NJN SYSTEMS, INC.,  
d.b.a. Daytona Shores Food Mart,

Plaintiff-Appellant,

versus

SUNOCO, INC.,  
a Pennsylvania corporation,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Middle District of Florida

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(April 5, 2016)

Before HULL, JULIE CARNES, and CLEVINGER,\* Circuit Judges.

PER CURIAM:

The parties here are already familiar with the facts and procedural history. Both parties presented their claims and defenses based on lay witness testimony. No party objected to the lack of expert testimony in the district court or on appeal. Thus, we decide the case based on how the parties litigated it. See Marsh v. Butler Cty., 268 F.3d 1014, 1023-24 n.4 (11th Cir. 2001) (en banc).

That said, after review of the parties' briefs and the record, and with the benefit of oral argument, we find no reversible error in the district court's order granting summary judgment in favor of Defendant Sunoco, Inc. on all of Plaintiff NJN Systems Inc.'s claims, and that order is affirmed.

**AFFIRMED.**

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\*Honorable Raymond C. Clevenger, United States Circuit Judge for the Federal Circuit, sitting by designation.