

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-16203
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APRIL 7, 2009 THOMAS K. KAHN CLERK
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D.C. Docket No. 01-01372-CV-2-SLB-RRR

TIECO, INC.,

Plaintiff-Appellant,

versus

USX CORPORATION,
a corporation,
ROBERT E. HILTON,
JAMES B. WAGER,
individually and in his official capacity as the
former Audit Manager of the Division of
USX Corporation,
KENNETH FALLS,
individually and in his official capacity as
Tractor Shop Coordinator,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Alabama

(April 7, 2009)

Before BIRCH, HULL, and HILL, Circuit Judges.

PER CURIAM:

This appeal challenges the district court's dismissal of this action after entry of judgment on the pleadings for defendant, USX Corporation. The district court entered this judgment after review of the underlying complaint, concluding that plaintiff seeks in this action to relitigate issues already decided against plaintiff on appeal to this court in an earlier action, and reaffirmed by this court in its affirmation of the denial of plaintiff's Rule 60 motion for a new trial. The district court in this case concluded that the issues raised here were either brought in the previous case or could have been brought therein.¹ Accordingly, applying the principles of *res judicata* and collateral estoppel, the district court dismissed this action. Finding no error in this disposition of the case, we

AFFIRM.

¹To the extent that plaintiff's complaint alleges a new claim for the independent tort of spoliation, the district court correctly concluded that Alabama law does not recognize that claim as asserted here.