

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

MAY 20 1997

PATRICK FISHER
Clerk

CAROL LAHEY,

Plaintiff-Counter-
Defendant-Appellant,

v.

TWIN LAKES EXPEDITIONS, INC.,
a Colorado corporation; RICK
COVINGTON; DOUGLAS (BLUES)
VOISARD,

Defendants-
Counterclaimants, Third-
Party-Plaintiffs-
Appellees,

and

ROB MOBILIAN,

Third-Party-Defendant.

No. 96-1438
(D. Ct. No. 95-N-1396)
(D. Colo.)

ORDER AND JUDGMENT*

Before SEYMOUR, PORFILIO, and TACHA, Circuit Judges.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Having reviewed the record and the briefs, and having heard oral argument, the court concludes as a matter of law that the exculpatory portion of the release agreement is valid. The release agreement was fairly entered into and is clear and unambiguous. See Heil Valley Ranch, Inc. v. Simkin, 784 P.2d 781, 785 (Colo. 1989) (en banc); Jones v. Dressel, 623 P.2d 370, 378 (Colo. 1981) (en banc); Potter v. National Handicapped Sports, 849 F. Supp. 1407, 1410-11 (D. Colo. 1994). In addition we find that the record is devoid of evidence of willful and wanton conduct by the defendants. See Steeves v. Smiley, 354 P.2d 1011, 1013-14 (Colo. 1960); Hodges v. Ladd, 352 P.2d 660, 663 (Colo. 1960). Therefore, we AFFIRM substantially for the reasons stated in the April 29, 1996 Order and Memorandum of Decision of the District Court.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Circuit Judge