

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 07-3117

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Paije DeAnn Cerwinske,

Appellant,

v.

Cambrex Charles City, Inc.,

Appellee.

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Appeal from the United States  
District Court for the  
Northern District of Iowa.

[UNPUBLISHED]

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Submitted: December 5, 2008

Filed: February 12, 2009

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Before MELLOY, COLLOTON, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Paije DeAnn Cerwinske appeals the district court's<sup>1</sup> denial of her Federal Rule of Civil Procedure 60(b)(1) motion after the adverse grant of summary judgment in her employment-discrimination action. We find no abuse of discretion in the denial of Rule 60(b) relief. See Noah v. Bond Cold Storage, 408 F.3d 1043, 1045 (8th Cir. 2005) (per curiam) (abuse of discretion will be found only when district court's judgment was based on clearly erroneous factual findings or erroneous legal conclusions). The district court properly applied the appropriate factors to determine

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<sup>1</sup>The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

whether the neglect or noncompliance in the instant matter was excusable. See In re Guidant Corp. Implantable Defibrillators Prods. Liability Litig., 496 F.3d 863, 866-67 (8th Cir. 2007) (listing factors announced in Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380 (1993); fourth Pioneer factor--reason for delay, including whether it was within reasonable control of movant--is most important). The record also did not support Cerwinske's assertion that she had a meritorious defense to the summary judgment motion. See Feeney v. AT & E, Inc., 472 F.3d 560, 562-63 (8th Cir. 2006) (recognizing additional factor).

Accordingly, we affirm. See 8th Cir. R. 47B.

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