IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 91-7297

FEDERAL DEPOSIT INSURANCE CORPORATION,
in its corporate capacity for
Northway National Bank,

Plaintiff-Appellee,

versus

ADDISON CAR CARE, INC., ET AL.,

Defendants,

DAVID W. NOELL, ROBERT S. NOELL,

Defendants-Appellants.

Appeal from the United States District Court for the
Northern District of Texas
(CA 3 90 0823 R)

(December 31, 1992)

Before GOLDBERG, JOLLY, and WIENER, Circuit Judges.

PER CURIAM:*

This appeal involves the interpretation of two guarantee agreements. Finding no reversible error in the magistrate judge's interpretation of the agreements, we affirm in all respects except

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

as to the rate of interest as applied to one of the defendants, David W. Noell.

Before the case went to trial, David W. Noell entered into an agreed judgment with the plaintiff, the Federal Deposit Insurance Corporation ("FDIC"). David Noel and the FDIC agree that the agreed judgment governs David Noell's liability, but they disagree over the proper interpretation of that judgment. The agreed judgment provided that David Noell was liable to the FDIC in the sum of "$970,000, with interest thereon from August 30, 1988 to the date of judgment at the rate of eighteen percent per annum, and with interest thereon at the rate of ten percent per annum from the date of judgment until paid, together with all costs of Court in this behalf expended." The court entered the agreed judgment on February 11, 1991.

The magistrate judge's final judgment in this case, however, provided that David Noell pay eighteen percent interest on the debt until the court entered the final judgment on October 31, 1991.

The question before us is whether the district court erred when it entered a judgment that required David Noell to pay eighteen percent interest until October 31, 1991. David Noell contends that, pursuant to the agreed judgment, he should have to pay only ten percent interest beginning February 11, 1991, the date the court entered the agreed judgment. David Noell argues that the judgment the parties were referring to in the agreed judgment is the agreed judgment itself. Thus, he should owe the FDIC the sum

of "$970,000, with interest thereon from August 30, 1988 to the date of the [agreed] judgment at the rate of eighteen percent per annum, and with interest thereon at the rate of ten percent per annum from the date of the [agreed] judgment until paid, together with all costs of Court in this behalf extended."

The FDIC, on the other hand, contends that the district court correctly required David Noell to pay eighteen percent interest until October 31, 1991. The FDIC argues that the judgment that the parties were referring to in the agreed judgment is the final judgment that the court entered over eight months later on October 31, 1991. Thus, David Noell should owe the FDIC the sum of "$970,000, with interest thereon from August 30, 1988 to the date of the [final] judgment at the rate of eighteen percent per annum, and with interest thereon at the rate of ten percent per annum from the date of the [final] judgment until paid, together with all costs of Court in this behalf extended."

We are convinced that the parties were referring to the agreed judgment and not the final judgment. It is certainly implicit, if not explicit, that when the parties referred to "judgment," they were referring to the judgment embodied and reflected in the agreed judgment that resolved the claim against David W. Noell in the amount of $970,000, and not to some later judgment that might conclude the entire case. Indeed, the agreed judgment was the only judgment in the case at the time the court entered it. Thus, there was no need to describe further the judgment the parties were

referring to. Therefore, to this limited extent, we REVERSE the magistrate judge's judgment and REMAND to the district court with instructions to amend the judgment in accordance with this opinion. In all other respects, the district court is AFFIRMED.

AFFIRMED in part; REVERSED in part; and
REMANDED for ENTRY OF JUDGMENT.