

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-2886  
Summary Calendar

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BENJAMIN FRANKLIN FEDERAL SAVINGS  
ASSOCIATION,

Plaintiff,

versus

DAVID WAINWRIGHT LEE and  
DARLENE Z. LEE,

Defendants,

DARLENE Z. LEE,

Defendant-Counter Plaintiff,  
Appellant,

versus

FEDERAL SAVINGS AND LOAN INSURANCE  
CORP. as Receiver for Benjamin Franklin  
Savings Association,

Counter Defendant,  
Appellee.

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Appeal from the United States District Court for  
the Southern District of Texas  
(CA-H-89-2505)

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(February 11, 1994)

Before REAVLEY, HIGGINBOTHAM and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

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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

After David and Darlene Lee defaulted on a promissory note secured by a deed of trust, Benjamin Franklin Savings Association (Franklin) foreclosed. The proceeds from the foreclosure sale, coupled with the payment from the Lees' mortgage insurer, did not fully discharge the Lees' payment obligations under the note. Franklin brought suit in state court to recover the deficiency, and the Lees responded with various counterclaims. The FSLIC intervened as the receiver of Franklin and removed the case to federal court.

Once in federal court, the FSLIC filed a Motion for Summary Judgment. The FSLIC sent a copy of the motion to the Lees' attorney by certified mail, but he did not respond. Relying upon the summary judgment evidence, the district court granted the uncontested motion and dismissed the Lees' counterclaims with prejudice on March 23, 1990.

The Lees subsequently fired their attorney, and Ms. Lee continued her fight *pro se*. She attempted to appeal the March 23, 1990 judgment, but this court dismissed her appeal because the district court failed to reduce the judgment to a separate document as required by Fed. R. Civ. P. 58. On December 15, 1992, the district court complied with Rule 58 and entered a final judgment consistent with the terms described in its previous order. Ms. Lee now appeals this final judgment. We affirm.

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profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

The uncontroverted summary judgment evidence shows the following: The Lees signed the note, they failed to make timely payments, Franklin foreclosed, and a deficiency resulted. Ms. Lee does not contest the signing of the note, her failure to make timely payments, nor the fact that the note was in arrears when Franklin accelerated the debt and foreclosed. Instead, she raises various arguments not presented to the district court, which we will not consider here. See *Savers Federal Sav. & Loan Ass'n v. Reetz*, 888 F.2d 1497, 1501 (5th Cir. 1989) (refusing to consider arguments the complaining party failed to assert in the district court).

While the court's December 15, 1992 judgment does not mention the disposition of Ms. Lee's counterclaims, it does state that it is entered pursuant to the court's memorandum opinion of March 23, 1990, in which the court found Ms. Lee's counterclaims meritless and not supported by a "scintilla of evidence." Accordingly, the court's December 15, 1992 judgment dismissed Ms. Lee's counterclaims with prejudice.

AFFIRMED.