

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-3978  
Summary Calendar

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PAINWEBBER INCORPORATED,

Plaintiff-Appellee,

versus

R. C. HANSEN,

Defendant-Appellant.

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Appeal from the United States District Court for  
the Eastern District of Louisiana  
(CA 90 4585 F(5))

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July 29, 1993

Before REAVLEY, DAVIS and DEMOSS, Circuit Judges.

REAVLEY, Circuit Judge:\*

The district court confirmed an arbitration award against R.C. Hansen and issued judgment in favor of PaineWebber, Inc., with interest both before and after the judgment, attorneys' fees, and costs. Hansen contests the fee and prejudgment interest awards on appeal, and PaineWebber seeks additional attorneys' fees' and costs. We affirm, but grant only double costs.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

## I. BACKGROUND

An arbitrator awarded PaineWebber some \$116,000 from Hansen, who did not challenge the award but refused to pay. By letter, PaineWebber reminded Hansen of his contractual obligation to pay all fees and costs associated with collecting the debt, and Hansen did not respond. PaineWebber sued for confirmation of the arbitration award in district court, Hansen offered no defense, and in March 1991, the court entered an order directing Hansen to pay the award plus costs and fees. PaineWebber asked the court for a judgment in accord with its order, but the court did not immediately enter one.

Meanwhile, Hansen told PaineWebber that he had no assets to satisfy the judgment, but PaineWebber located an account in the name of the "Hansen Trust." Hansen refused PaineWebber's requests for information about the trust, so PaineWebber sued Hansen and his family for a declaratory judgment that the trust was Hansen's community property, and thus subject to execution. The district court considered the parties' evidence, and held as a matter of law that the trust assets were Hansen's community property. Hansen does not contest this ruling.

Soon after ruling on ownership of the trust, in August 1992, the district court entered judgment in the confirmation proceeding, granting PaineWebber its arbitration award plus interest and all reasonable costs and attorneys' fees incurred in enforcing that award. The district court rejected Hansen's argument that he should only pay postjudgment interest of 3.41% from the time the

court entered its order confirming the award in March 1991 to the time the court issued judgment on that award in August 1992, and instead ordered him to pay prejudgment interest of 9% to 11.5% during this period.

Subsequently, PaineWebber filed its application for attorneys' fees and costs, but inadvertently used the caption for the declaratory judgment action on that document instead of the caption for the confirmation suit. PaineWebber's accompanying memorandum featured the correct caption. The district court took the motion to be filed in the confirmation suit, analyzed it, and concluded that PaineWebber was entitled to \$84,992.63 in attorneys' fees and \$7,234.50 in costs.

Hansen disputed the fee and interest awards, which caused PaineWebber's counsel to attend a hearing on the fee amount and to file briefs on fee and interest issues here and in the district court. For its efforts in defending its interest and fee awards, PaineWebber's counsel asks us to award over \$30,000 in additional fees and costs.

## **II. DISCUSSION**

### **A. DISTRICT COURT'S FEE AWARD**

Hansen argues that the district court's judgment in the confirmation suit is a default judgment that contravenes FED. R. CIV. P. 54(c) by ordering relief which exceeds that prayed for in the complaint. According to Hansen, PaineWebber only sought fees incurred in confirming the arbitration award, and not fees incurred

in enforcing that award, so the district court erred in awarding fees for enforcement.

But even assuming *arguendo* that the court entered a default judgment in the confirmation proceeding, the fee award for enforcement falls within PaineWebber's complaint, which requests "all the costs and attorney's fees ... incurred in connection with this application" and "all such further relief as may be just and proper."

Next, Hansen argues that the district court either erroneously awarded attorneys' fees in the declaratory judgment action, or erred in deeming the fee request as filed in the confirmation action when its caption referred to the declaratory judgment action. Common sense, the memorandum that PaineWebber filed with the fee application, and the explicit statement in the fee application that it was filed "pursuant to [the Court's] August 28, 1992 judgment," indicate that PaineWebber intended to file the fee application in the confirmation action pursuant to the judgment in that action. Nothing indicates that the district court erred by entertaining the fee application pursuant to its judgment in the confirmation action.

Finally, Hansen sprinkles a few statements in his brief that indicate his dissatisfaction with the reasonableness of the district court's fee award and the scope of attorney work for which the fee award holds him responsible. But Hansen agreed with PaineWebber to pay "any costs of collection, including attorneys'

fees," and we cannot disturb a district court's fee award except on abuse of discretion. We find none.

#### B. PREJUDGMENT INTEREST

The district court awarded PaineWebber prejudgment interest (which almost triples the postjudgment interest mandated by 28 U.S.C. § 1961) from the date of the arbitration award until the date the court signed a judgment in August 1992, even though the court issued an order in March 1991 granting PaineWebber the confirmation that it sought. Hansen calls this "unconscionable," and argues that he should only have to pay the postjudgment rate while the court waited to enter a judgment. But Hansen presents no authority to support his position, and we see no reason to disturb the bright-line rule established by section 1961: "[Postjudgment] interest shall be calculated from the date of the entry of the judgment."

#### C. ADDITIONAL FEE AWARD

The only sign of excessiveness in this record is the \$27,000 request PaineWebber makes for its fee in this last phase of Hansen's delaying tactic )) a tactic totally without merit. The added fee is denied, but double costs are granted under Rule 38 F.R.A.P., awarding \$3,745.05 and court costs doubled.

### **III. CONCLUSION**

We AFFIRM the district court's awards of attorneys' fees and prejudgment interest to PaineWebber. Double costs are awarded to Appellee.