

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-30392  
Summary Calendar

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FEDERAL DEPOSIT INSURANCE CORPORATION,  
as manager of the FSLIC Resolution Fund,

Plaintiff-Appellant-Cross-Appellee,

versus

GERALD C. BARTON, WILLIAM W. VAUGHAN, BERNARD ILLE,  
JOE W. WALSER, JR., JOSEPH V. OLREE,

Defendants-Appellees,

GERALD G. ROTHMAN, PETER R. KIRWIN-TAYLOR,  
GILBERT I NEWMAN, JACK G. GOLSEN,  
NORMAN L. PECK, ALBERT REICHMANN,

Defendants-Appellees-Cross-Appellants.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 94-CV-3294 K  
- - - - -

August 25, 1997

Before JOLLY, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:\*

The Federal Deposit Insurance Corporation (FDIC) appeals the district court's order awarding costs to defendants Barton, Vaughan, and Walser pursuant to Fed. R. Civ. P. 54(d). The FDIC argues that the defendants are not "prevailing parties" under

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Rule 54 because a claim is still pending in the district court. The cross-appellants argue that the district court abused its discretion in reducing the amount of the costs award by \$22,500.46.

The district court's finding that defendants Barton, Vaughan, and Walser were "prevailing parties" was not an abuse of discretion. See Fogleman v. Aramco, 920 F.2d 278, 285 (5th Cir. 1991). The district court's determination of which costs were necessary was not an abuse of discretion. See Coats v. Penrod Drilling Corp., 5 F.3d 877, 891-92 (5th Cir. 1993), reinstated in relevant part, 61 F.3d 1113, 1118 (5th Cir. 1995) (en banc).

AFFIRMED.