

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-30712  
Summary Calendar

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STATE FARM FIRE AND CASUALTY COMPANY,

Plaintiff-Appellee,

versus

KANSAS CITY SOUTHERN RAILWAY CO.,

Defendant-Appellee,

versus

SIMONELLI ENTERPRISES INC., doing business  
as Simonelli Grocery,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Louisiana  
(2:94-CV-2213)

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January 10, 1997  
Before SMITH, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Simonelli Enterprises, Inc., challenges the adequacy of damages awarded for lost profits by the district court following a bench trial. Simonelli contends that the district court erred by

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

relying on the projection of future loss testified to by State Farm's expert witness, who relied on "national average" components. Simonelli charges that this testimony was less reliable than that of its expert or that of Kansas City Southern Railway Co.'s expert, both of whose projections were derived using actual financial data of the business.

In its findings of fact, the district court stated the State Farm's expert's "calculations are the most detailed and reliable of the lost profits figures presented to the court." Needless to say, "[t]he credibility determination of witnesses, including experts, is peculiarly within the province of the district court." **Orduna S.A. v. Zen-Noh Grain Corp.**, 913 F.2d 1149, 1154 (5th Cir. 1990). We cannot say that the district court committed clear error by accepting the testimony of State Farm's expert over that of the other two. *Id.* See also FED. R. CIV. P. 52(a); **Anderson v. City of Bessemer City, N.C.**, 470 U.S. 564, 573-74 (1985) ("Where there are two permissible views of the evidence, the factfinder's choice between them cannot be clearly erroneous.").

The judgment is, therefore,

**AFFIRMED.**