

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 13, 2026

Thomas B. Plunkett, III
Clerk

No. 26-20183

CARLO GIUSEPPE CIVELLI; ASTER CAPITAL S.A. (LTD)
PANAMA,

Plaintiffs—Appellees,

versus

PHILLIP EMANUEL MULACEK; MICHELLE MULACEK VINSON;
PIERRE MULACEK; MAURICETTE MULACEK; RONALD MULACEK,

Defendants—Appellants.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:17-CV-3739

PUBLISHED ORDER

Before HIGGINSON, WILLETT, and OLDHAM, *Circuit Judges*.

PER CURIAM:

A jury returned a verdict against defendants Phillip Mulacek, Michelle Mulacek Vinson, Pierre Mulacek, and Mauricette Mulacek, and the district court entered judgment of more than \$210 million. The Mulaceks moved to stay that judgment under Federal Rule of Civil Procedure 62(b), which permits a party to “obtain a stay by providing a bond or other security.” FED.

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R. CIV. P. 62(b). Ordinarily, a supersedeas bond “will be set in an amount that will permit satisfaction of the judgment in full, together with costs, interest, and damages for delay.” 11 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 2905 (3d ed.). The Mulaceks, however, sought approval of a \$25 million bond—far less than the amount required to secure full satisfaction—invoking a Texas statute that caps supersedeas bonds at that amount. *See* TEX. CIV. PRAC. & REM. CODE § 52.006(b)(2).

The district court denied the request, holding that the \$25 million cap does not apply in federal court. The Mulaceks renew their request here. *See* FED. R. APP. P. 8(a)(1)(B), (2). We agree with the district court and DENY the motion.

I. DISCUSSION

The Mulaceks make two arguments for why the \$25 million cap applies in federal court. First, they argue that Rule 69(a)(1) incorporates the cap by reference. Second, they argue that the cap is substantive and thus applies under *Erie*. Neither argument is persuasive.¹

A. Rule 69(a)(1)

Rule 69(a)(1) requires that “[t]he procedure on execution” of a federal judgment “must accord with the procedure of the state where the court is located,” unless a federal statute provides otherwise. FED. R. CIV. P. 69(a)(1). The question is whether a supersedeas-bond cap is part of that “procedure on execution.” The phrase, read in isolation, is ambiguous. It

¹ Because we reject the Mulaceks’ arguments under Rule 69(a) and *Erie*, we need not decide whether Rule 62, which “allow[s] the federal courts to set the amount of [the bond] in their discretion,” *Burlington N.R. Co. v. Woods*, 480 U.S. 1, 7 n.5 (1987), is “on point” and thus allows us to “bypass[] *Erie*’s inquiry altogether,” *Berk v. Choy*, 607 U.S. 187, 192 (2026).

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could mean any state rule affecting the effect or enforcement of a judgment. If so, Texas's \$25 million cap applies. Or it could mean only the mechanics of execution—how a judgment is collected, what property can be reached, and how the process works. If so, the cap does not apply. Context favors the narrower reading.

First, Rule 69 governs *how* a judgment is executed—not when *or* whether it may be executed at all. Rule 69(a)(2), for example, authorizes discovery in aid of execution. *See* FED. R. CIV. P. 69(a)(2). Similarly, Rule 69(b) incorporates 28 U.S.C. § 2006, which permits judgments against revenue officers to be satisfied from the Treasury rather than from personal assets. *See* FED. R. CIV. P. 69(b). Rule 62 focuses on a different question: when enforcement may proceed. Reading Rule 69(a)(1) to include state rules governing stays of enforcement would turn a rule about how judgments are enforced into a rule about when enforcement may begin. That is not what Rule 69 says, and it does not fit how the rules are organized.

Second, the broader reading would make Rule 62(f) superfluous. Rule 62(f) separately entitles a judgment debtor “to the same stay of execution the state court would give”—but only “[i]f a judgment is a lien on the judgment debtor’s property” under state law.² FED. R. CIV. P. 62(f). If Rule 69(a)(1) already incorporated all state rules governing stays, Rule 62(f) would be entirely unnecessary, and its lien condition would be not merely redundant but inexplicable.

We therefore reject the Mulaceks’ Rule 69(a)(1) argument.

² “[A] judgment in the state of Texas is not a lien within the purview of Rule 62(f).” *MM Steel, L.P. v. JSW Steel (USA) Inc.*, 771 F.3d 301, 306 (5th Cir. 2014) (per curiam). So Rule 62(f) provides no basis for applying Texas’s \$25 million cap here.

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B. *Erie*

Erie R. Co. v. Tompkins, 304 U.S. 64 (1938), requires federal courts sitting in diversity to apply state substantive law. *See Gasperini v. Ctr. for Humanities, Inc.*, 518 U.S. 415, 427 (1996). Procedural matters, by contrast, are governed by federal law. *Id.* The line between them is not always clear. “Classification of a law as ‘substantive’ or ‘procedural’ for *Erie* purposes is sometimes a challenging endeavor.” *Id.* Courts consider “a number of touchstones,” including (1) whether “disregard[ing]” the law would “significantly affect the result of [the] litigation,” *All Plaintiffs v. All Defendants*, 645 F.3d 329, 335 (5th Cir. 2011) (emphasis deleted) (quoting *Guaranty Trust Co. of N.Y. v. York*, 326 U.S. 99, 109 (1945)), (2) “whether [the] state rule is ‘bound up’ with state-secured substantive rights and obligations,” *id.* at 336 (quoting *Byrd v. Blue Ridge Rural Elec. Coop., Inc.*, 356 U.S. 525, 535 (1958)), and (3) whether disregarding the rule would offend “the ‘twin aims’ of *Erie*: ‘discouragement of forum-shopping and avoidance of inequitable administration of the laws,’” *id.* (quoting *Hanna v. Plumer*, 380 U.S. 460, 468 (1965)).

The Mulaceks argue that the \$25 million cap is outcome determinative because its absence shifts settlement leverage to judgment creditors. *See Olympia Equip. Leasing Co. v. W. Union Tel. Co.*, 786 F.2d 794, 799 (7th Cir. 1986) (explaining how the absence of a stay can “force a settlement before the appeal is heard by making it difficult for [judgment debtors] to prosecute the appeal without declaring bankruptcy”). That argument is accurate, but it proves too much. Virtually every procedural rule—pleading, discovery, evidence, you name it—affects settlement dynamics. That does not make them substantive. *See, e.g., Passmore v. Baylor Health Care Sys.*, 823 F.3d 292, 299 (5th Cir. 2016) (“[R]ules governing pretrial discovery are procedural.”); *FDIC v. Dawson*, 4 F.3d 1303, 1308 (5th Cir. 1993) (“[P]leading requirements in federal court are governed by

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Federal Rule of Civil Procedure 8 rather than by state law.”). If settlement pressure were sufficient to make a rule substantive, the *Erie* line would cease to exist.

The Mulaceks next argue that the cap is bound up with a state-created right—specifically, “the right to a meaningful appeal.” *In re Longview Energy Co.*, 464 S.W.3d 353, 359 (Tex. 2015). Texas courts have described the cap as “reflect[ing] a new balance between the judgment creditor’s right in the judgment and the dissipation of the judgment debtor’s assets during the appeal against the judgment debtor’s right to meaningful and easier access to appellate review.” *In re Nalle Plastics Fam. Ltd. P’ship*, 406 S.W.3d 168, 170 (Tex. 2013). But those are litigation interests—interests in *how* judgments are enforced and reviewed once liability is fixed. They are not the primary rights *Erie* was designed to protect. They do not “channel[] behavior outside the courtroom.” *Barron v. Ford Motor Co. of Canada Ltd.*, 965 F.2d 195, 199 (7th Cir. 1992). And in federal litigation, both interests are governed by federal law—not state law. *See Semtek Int’l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 508 (2001) (holding that the preclusive effect of a federal judgment is governed by federal law); *NCDR, L.L.C. v. Mauze & Bagby, P.L.L.C.*, 745 F.3d 742, 750 (5th Cir. 2014) (“[S]tate law does not control the question of whether appellate review is available in federal court.”).

Finally, the Mulaceks argue that disregarding the cap would violate the twin aims of *Erie*. But their argument here simply restates their prior arguments: that disregarding the cap would increase settlement pressure and upset the balance between judgment creditors’ and judgment debtors’ competing interests. Those may be fair concerns, but they go the mechanics of enforcing a federal judgment. *Erie* is concerned with something else: forum shopping and unequal administration of the laws. That litigants may prefer one forum’s bond rules to another’s does not itself amount to the kind of forum shopping *Erie* addresses.

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Nor does the \$25 million cap define the parties' rights or obligations. It governs the security required to stay enforcement of a judgment pending appeal—a matter that “concerns merely the manner and the means by which a right to recover . . . is enforced.” *York*, 326 U.S. at 109. That is procedural—not substantive.

II. CONCLUSION

Texas's supersedeas-bond cap does not apply in federal court. The Mulaceks offer no other basis for a \$25 million bond. Their motion to approve a \$25 million supersedeas bond is DENIED.

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ANDREW S. OLDHAM, *Circuit Judge*, concurring in the judgment:

I agree that the motion to stay should be denied. But I would reach that result under Federal Rule of Civil Procedure 62, which “allow[s] the federal courts to set the amount of the [bond] in their discretion.” *Burlington N.R. Co. v. Woods*, 480 U.S. 1, 7 n.5 (1987). We have no need to consider *Erie* or Texas law.