

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**XPEDX, a division of International
Paper Company d/b/a Saalfeld
Redistribution Company**

PLAINTIFF

v.

No. 4:11-cv-763-DPM

PAUL WALLIS, individually

DEFENDANT

ORDER

Paul Wallis has notified the Court that he has no objection to the Plaintiff's motion for summary judgment.* *Document No. 33*. The material facts are therefore undisputed. Local Rule 56.1(c). As personal guarantor, Wallis is liable for the valid \$168,298.49 debt owed to Xpedx; and Xpedx is entitled to judgment as a matter of law. ARK. CODE ANN. § 16-45-104; FED. R. CIV. P. 56(a).

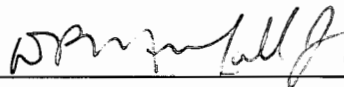
Xpedx is entitled to recover prejudgment interest because "the amount of damages is definitely ascertainable by mathematical computation[.]" *Ozarks Unlimited Resources Coop., Inc. v. Daniels*, 333 Ark. 214, 224, 969 S.W.2d

*Because Wallis never responded or objected to the motion for summary judgment, his motion to withdraw the objection is a misnomer. The Clerk is directed to redesignate the filing, *Document No. 33*, as a notice rather than a motion.

169, 174 (1998). The Court encourages the parties to confer and see if they can agree on the prejudgment interest rate, a *per diem* amount, and the start date. See HOWARD W. BRILL, ARKANSAS LAW OF DAMAGES § 10:4 (5th ed. 2004); ARK. CONST. amend. 89, § 3. If Xpedx intends to move for costs or attorney's fees, the Court hopes the parties can also agree on the amount. The parties should file a joint paper on these issues, or Xpedx should file a motion on them, by 24 August 2012. The Court will not enter judgment until the remaining issues are resolved.

Motion for summary judgment, *Document No. 19*, granted.

So Ordered.



D.P. Marshall Jr.
United States District Judge

2 August 2012