

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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MARK A. WEIGAND,

Plaintiff-Appellant,

v

ROBERT E. BRERETON, Personal  
Representative for the Estate of ALBERT  
JOHN BRERETON, Deceased,

Defendant-Appellee.

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UNPUBLISHED  
February 19, 1999

No. 203098  
Macomb Circuit Court  
LC No. 96-006043 AV

Before: Gribbs, P.J., and Saad and P. H. Chamberlain,\* JJ.

PER CURIAM.

Plaintiff appeals on leave granted from an order of the circuit court affirming the probate court's award of interest on a judgment entered pursuant to a mediation award. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The issue in this case is whether a judgment entered on a mediation award in an action asserting claims for recovery on a written instrument constitutes a "judgment rendered on a written instrument" within the meaning of MCL 600.6013(5); MSA 27A.6013(5), which provides a 12% interest rate for money judgments "rendered on a written instrument," instead of the variable interest rate provided by MCL 600.6013(6); MSA 27A.6013(6) for money judgments "recovered in a civil action." Essentially, it is plaintiff's position that all money judgments entered in an action where the underlying claim is based on a written instrument, including judgments entered pursuant to mediation acceptance, constitute a judgment rendered on a written instrument itself for purposes of MCL 600.6013(5). We disagree.

Had the Legislature intended MCL 600.6013(5) to apply to all money judgments recovered in an action brought on a written instrument, it could have used language similar to that used in MCL 600.6013(6) referring to judgments "recovered in" a certain type of "action." However, the language of MCL 600.6013(5) refers to the basis upon which the judgment is "rendered on" rather than merely

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\* Circuit judge, sitting on the Court of Appeals by assignment.

the type of action the judgment is “recovered in.” This distinction is important. The merits of a claim asserted on a written instrument do not necessarily have to be resolved in order for there to be some type of money judgment “recovered in” the underlying action, since the basis of the judgment may be something other than the merits of the claim asserted on the written instrument, e.g., a discovery or other procedural sanctions ruling. However, a judgment can only be “rendered on” the basis of a written instrument if the written instrument itself is somehow recognized as enforceable, whether by adjudication, admission or default. See *Jones v Jackson National Life Ins Co*, 819 F Supp 1382, 1384 (WD Mich 1993) (judgment “rendered on a written judgment” is one which enforces a written instrument).

As defendant correctly notes, the merits of plaintiff’s alleged option contract claim were never determined in this case. The acceptance of a mediation evaluation is the legal equivalent of a consent judgment reached after negotiation and settlement. E.g., *Auto Club Ins Ass’n v State Farm Ins Cos*, 221 Mich App 154, 166; 561 NW2d 445 (1997). A settlement does not constitute an adjudication or admission of the merits of claims involved in the dispute, but merely an acknowledgment that a dispute exists and that an amount is paid to be rid of the controversy. *Walbridge Aldinger Co v Walcon Corp*, 207 Mich App 566, 573-574; 525 NW2d 489 (1994); *Protective Ins Co v American Mutual Liability Ins Co*, 143 Mich App 408, 417, n 4; 372 NW2d 577 (1985). See also *Hoover Corners, Inc v Conklin*, 230 Mich App 567, 575; 584 NW2d 385 (1998). Indeed, when a judgment entered pursuant to a settlement, the settlement agreement supersedes, substitutes for and extinguishes the antecedent claim or right of action sued upon. E.g., 15A Am Jur 2d, *Compromise and Settlement*, § 25, p 797. It follows that a judgment entered on a mediation award in an action asserting a claim for recovery on a written instrument is in no way a judgment “rendered on” and enforcing the written instrument itself.

Affirmed.

/s/ Roman S. Gribbs  
/s/ Henry William Saad  
/s/ Paul H. Chamberlain