

SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

SUSSEX COUNTY COURTHOUSE
1 THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947
TELEPHONE (302) 856-5264

August 14, 2013

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Dover, DE 19901

RE: **Scott O'Riley v. Shawn Rogers**
Case No.: S08C-07-020 RFS

Dear Counsel:

I have reviewed the submissions on the amount of the judgment. Two aspects are presented, namely the calculation of interest and the allowance of costs.

The principal amount is represented by the verdict of \$292,330.00. Plaintiff is entitled to pre-judgment interest from the date of the accident on September 18, 2006 under 6 Del.C. § 2301. On that date the legal rate was 11.25%, being the sum of 6.25%, the Federal Reserve Discount Rate, plus 5% as stated in the statute.

The law on interest on judgments is discussed in a treatise, Delaware Trial Handbook, Sec. 28.10. It finds, in pertinent part, that:

Interest is money awarded to a successful plaintiff in a civil action beyond the amount of the judgment to compensate the plaintiff

for additional losses resulting from being deprived of the use of the money during the period between the injury and payment. . . . The rate of interest allowed in actions at law generally is equated to the “legal rate” of interest described in 6 Del.C. § 2301. . . . Delaware law disfavors compounding interest. A court generally will not award compound interest absent an express contractual or statutory provision so permitting. Similarly disfavored is the segmenting of interest, i.e., awarding different rates of interest for pre-judgment and post-judgment interest, although such segmentation may be permitted in equity in the discretion of the court. . . . Further, a court may not add pre-judgment interest to the judgment to establish the total amount upon which post-judgment interest will be calculated absent a finding of special circumstances. (Internal citations omitted.)

There are no special circumstances in this case. No statute authorizes compound interest. Interest will be at the legal rate from the date of the injury until the judgment is satisfied.

The other issue concerns costs for an expert. The parties disagree about the amount due for the testifying physician for plaintiff. His testimony was presented by video to the jury. Plaintiff seeks reimbursement of \$2,500.00.

The doctor’s deposition was taken in his office. It lasted about 45 minutes. The deposition is 25 pages in length. A reasonable fee would be \$1,000.00 under these circumstances, also considering the 1995 Medical Society of Delaware Medico-Legal Affairs Committee’s study in assessing the reasonableness of medical experts’ trial fees.

An Order is attached in accord with this opinion.

Very truly yours,

/s/ Richard F. Stokes

Richard F. Stokes

RFS:tls

cc: Prothonotary

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

SCOTT O'RILEY,

Plaintiff,

v.

SHAWN ROGERS

Defendant.

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C.A. No.: S08C-07-020 RFS

ORDER

Upon consideration, IT IS HEREBY ORDERED THAT:

- (1) Judgment is entered in favor of the plaintiff, Scott O'Riley, and against the defendant, Shawn Rogers, in the amount of \$292,330.00 together with simple interest at the legal rate of 11.25% per annum from September 18, 2006 with a per diem of \$91.35 ($\$292,330 \times 11.25\%$ divided by 360) until date of satisfaction;
- (2) Costs are assessed in favor of the plaintiff and against the defendant in the amount of \$3,733.54.

/s/ Richard F. Stokes

Judge