IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

GRAND OAKS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	00 MC 028 Ml/P
	)	
ARTHUR ANDERSON, and	)	
JERRY HOLLINGSWORTH,	)	
	)	
Defendants.	)	

ORDER ON OBJECTION OF ARTHUR ANDERSON AND JERRY HOLLINGSWORTH TO CONWOOD DEFENDANTS' ACCOUNTING OF INTEREST ON JUDGMENTS IN CASE 94CV2967

Before the Court is the Objection of Arthur Anderson and Jerry Hollingsworth ("Conwood Plaintiffs") to Conwood Company and Edwin S. Roberson's ("Conwood Defendants"), accounting of interest due on two judgments against them totaling $100,000, filed on October 27, 2003 (docket entry 131). The matter was referred to the Magistrate Judge for determination pursuant to 28 U.S.C. § 636(b)(1)(A).

I. BACKGROUND

On August 21, 1998, a jury in related case number 94CV2967 ("Conwood case") ruled against Conwood Defendants and in favor of Conwood Plaintiffs, awarding them $2 million each in compensatory damages and $3.5 million total in punitive damages. On August 25, 1998, the Court entered judgment on the verdict. On September 16,

1998, the Court granted Conwood Defendants' motion to stay execution of judgment while it considered objections to the judgment. On January 29, 1999, the Court granted Conwood Defendants' motion for remittitur, reducing the compensatory damages to $50,000 each and eliminating entirely the award of punitive damages. Conwood Plaintiffs accepted the remittitur "under protest."[1] On August 14, 2001, the Court entered final judgment against Conwood Defendants in the amount of $100,000, $50,000 for each plaintiff. On May 22, 2003, Conwood Defendants paid $100,000 to the Clerk of the Court in satisfaction of the judgment. On the same date, Grand Oaks, Inc., intervened in the Conwood case seeking garnishment against Anderson's $50,000 award.[2]

On October 15, 2003, Conwood Defendants submitted an accounting of interest due. They argue that postjudgment interest did not begin to accrue until May 2, 2003, the date that the Sixth Circuit's order dismissing Conwood Plaintiffs' appeal became final as "[i]t was only after that date that all parties could know with certainty that a final judgment existed . . . and how much the

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[1]Although Conwood Plaintiffs later purported to withdraw their acceptance, the Court deemed the remittitur accepted upon the initial acceptance under protest.

[2]In case number 00MC028 ("Grand Oaks case"), the Court granted Grand Oaks's motion to garnish against the proceeds of the Conwood case judgment in favor of Anderson to satisfy Grand Oaks's judgment against Anderson. On October 7, 2003, the Court ordered the Clerk of the Court to transfer to Grand Oaks, Inc., Anderson's $50,000 award including interest.

judgments were." Conwood Defendants argue that Conwood Plaintiffs' actions were the sole cause of delay in reaching finality so that payments on the judgments could be made. In the alternative, Conwood Defendants contend that interest began to accrue no earlier than August 15, 2001, when the Court entered its final judgment against them.

On October 27, 2003, Conwood Plaintiffs filed their Objection to the accounting. They contend that interest began to accrue on August 25, 1998, the date of the original entry of judgment on the merits.

II. DISCUSSION

Section 1961 of Title 28 of the United States Code states, in pertinent part:

> Interest shall be allowed on any money judgment in a civil case recovered in a district court . . . . Such interest shall be calculated from the date of the entry of the judgment at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment.

28 U.S.C. § 1961.

The Sixth Circuit has held that postjudgment interest runs from the date of any judgment that is not entirely set aside. See Skalka v. Fernald Envtl. Restoration Mgmt. Corp., 178 F.3d 414, 429 (6th Cir. 1999); Advanced Accessory Sys., LLC v. Gibbs, Nos. 01-1740, 01-1796, 01-2245, 2003 WL 21674748, at *8 (6th Cir. July 16, 2003)(unpublished). The judgment need not be final but may be an

"initial, partial judgment . . . even though that judgment was not yet appealable." See Skalka, 178 F.3d at 429. But see Dishman v. UNUM Life Ins. Co. of Am., 269 F.3d 974, 989-91 (9th Cir. 2001)(declining to follow Skalka, but recognizing that the issue is unclear.) Thus, Conwood Defendants' argument that interest did not accrue until there was a final appealable judgment, either upon the Sixth Circuit's dismissal of Conwood Plaintiffs' appeal or upon the Court's entry of final judgment, runs contrary to Sixth Circuit law. See Skalka, 178 F.3d at 429; Coal Resources, Inc. v. Gulf & Western Indus., Inc., 954 F.2d 1263, 1275 (6th Cir. 1992).

Here, the District Court entered judgment on the original jury verdict on August 25, 1998. The Court subsequently granted Conwood Defendants' motion for remittitur on January 29, 1999, which was accepted by Conwood Plaintiffs. A court "may permit or order a remittitur if the proper reduction to damages is ascertainable from the record." Coal Resources, 954 F.2d at 1269 (citing Hansen v. Boyd, 161 U.S. 397 (1896); Flame Coal Co. v. United Mine Workers of Am., 303 F.2d 39 (6th Cir. 1962), cert. denied, 371 U.S. 891 (1962)). In Coal Resources, the Sixth Circuit stated that even if a judgment is dramatically reduced by remittitur, damages may still be "sufficiently ascertained" on the date of the initial judgment because "the remittitur merely reduced the damages by a distinct amount easily determined from the facts of the case." See Skalka, 178 F.3d at 429 (citing Coal Resources, 954 F.2d at 1275, where

damages were reduced from $8,999,542 to $226,563, but postjudgment interest ran from the initial judgment; Brocklehurst v. PPG Indus., Inc. 907 F.Supp. 1106, 1109 (E.D. Mich. 1995)).

Following Sixth Circuit precedent, the Court finds that interest on the $50,000 judgments in favor of Conwood Plaintiffs should be calculated from August 25, 1998, the date of the original judgment on the merits, through May 22, 2003, the date that Conwood submitted payment to the Court. Section 1961(a) dictates that the proper postjudgment interest rate is equal to the weekly average 1-year constant maturity Treasury yield for the calendar week preceding the date of judgment. See 28 U.S.C. § 1961(a). This rate is published by the Board of Governors of the Federal Reserve System and can be found online at http://www.federalreserve.gov/releases/H15.

III. CONCLUSION

Accordingly, Conwood Defendants are instructed to submit a Proposed Order consistent with this Order calculating in detail the interest due on the judgments in case number 94CV2967 in favor of Conwood Plaintiffs within ten (10) days of the date of this Order. Anderson and Hollingsworth will have ten (10) days to respond following the submission of a Proposed Order.

IT IS SO ORDERED.

TU M. PHAM
United States Magistrate Judge

6/30/04
Date

UNITED STATES DISTRICT COURT - WESTERN DISTRICT OF TENNESSEE

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Honorable Jon McCalla
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