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Pre- & Post-Judgment Interest

Pre- and Post-Judgment Interest in a Nutshell

Litigation is often lengthy, and justice is rarely immediate. Even when plaintiffs are successful at securing a judgement in their favor, the damages award may not return the plaintiffs to the same economic position but for the injury. One reason is that such compensation is delayed if judgment is granted after the injury has occurred. Not addressing the “delay” aspect of damages implicitly awards the defendant an interest-free loan.

The court addresses this by imposing prejudgment interest, which is monetary compensation for the lost use of funds between the date the injury arose and the date the judgment was entered. In addition to a fairness argument, prejudgment interest also has an efficiency rationale. It deters future offenses and the resulting burden on the judicial system. It also reduces the defendant’s incentive to deliberately stretch out litigation.

Prejudgment interest can be substantial and, in some cases, well exceed damages. For example, in a suit arising out of the grounding of the supertanker *Amoco Cadiz* in 1978, the Seventh Circuit in 1992 awarded the French plaintiffs $65 million in damages and $148 million in prejudgment interest.[1]

Securing a favorable judgment may only be a partial victory for the prevailing party in a legal battle. Full restitution is not obtained until the judgment has been collected from the defendant. To encourage timely payment, the court may assess post-judgment interest on the entered judgement from the date of entry until the time of full collection. Therefore, delayed payment is further penalized by accrued interest on unpaid judgment.

Judgment Interest Rates

The application of prejudgment interest varies by jurisdiction and by case. In federal courts, the assessment of prejudgment interest generally falls under the discretion of trial courts. In state courts, some states apply prejudgment interest in all actions, such as California and Texas. Others restrict application to certain types of damages (e.g., liquidated damages) or a subset of actions

[1] Knoll, Michael S. “Primer on Prejudgment Interest.” *Tex. L. Rev.* 75.2 (1996) at 294.

(e.g., contract and tort). There is also little uniformity in the statutory rate of interest from one jurisdiction to the next.[2]

In both federal and state courts, post-judgment interest is allowed on most judgments entered,[3] though the rate of interest can differ markedly from court to court. In federal courts, the interest rate is set equal to the weekly average 1-year constant maturity Treasury yield, as published by the Federal Reserve System.[4] In state courts, the most common is a fixed post-judgment interest rate, ranging from 4 percent for the District of Columbia to 17 percent for Arkansas. Other states, with the exception of Minnesota, apply a "market plus" formula, which adds a certain percentage point to some market benchmark rate. Similar to the federal courts, Minnesota state courts index post-judgment interest to the one-year treasury yield.

For additional inquiries, please contact info@vegaeconomics.com.

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[2] "Jurisdictions Comparative Chart: Pre/Post Judgment Interest." *Cozen O'Connor*. <https://www.cozen.com/admin/files/publications/pre_post_judgment_interest_jurisidctional_chart.pdf>.
[3] *Id.*; "Post Judgment Interest Rate." *United States Courts*. <https://www.uscourts.gov/services-forms/fees/post-judgment-interest-rate>.
[4] "Post Judgment Interest Rate." *United States Courts*. <https://www.uscourts.gov/services-forms/fees/post-judgment-interest-rate>.