

12-1072

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA

BRIAN TIMMONS, Administrator  
of the Estate of Lewis C. Timmons,

Plaintiff,

v.

CIVIL ACTION NO. 08-C-102  
Judge David W. Hummel, Jr.

OHIO POWER COMPANY and  
AMERICAN ELECTRIC POWER  
SERVICE CORPORATION

Defendants.

ORDER GRANTING PLAINTIFF'S MOTION FOR PREJUDGMENT INTEREST

CAME THE PARTIES, before the Court, on July 11, 2012, to be heard regarding Plaintiff's Motion for Prejudgment Interest. The Court will note this proceeding took place during the omnibus evidentiary hearing regarding the issues of interest, attorney's fees and Plaintiff's Motion for a New Trial.

WHEREUPON the Court heard oral argument of counsel.

WHEREUPON the Court concluded that considering the facts of record, the representations of counsel and the Court's direct participation in a settlement conference in this matter, that pursuant to the standards established by Ohio law in respect to prejudgment interest, this is a case where prejudgment interest is proper under Ohio law and the Plaintiff shall be entitled to it.

The Court found specifically that the four-hour proceeding on the 11<sup>th</sup> was "a hearing" within the meaning of Ohio or West Virginia law, that prejudgment interest is a substantive matter wherein the Court will apply Ohio law in this case and the prejudgment interest in this matter will run from the date of Mr. Timmons' death, January 8, 2007.

FILED  
2012 JUL 31 AM 8:00  
DAVID W. HUMMEL, JR.

WHEREFORE the Court awards prejudgment interest to the Plaintiff as follows:

2007 (8 percent)	\$156,891.48
2008 (5 percent)	\$99,974.00
2009 (5 percent)	\$99,974.00
2010 (4 percent)	\$79,979.00
2011 (4 percent)	\$72,967.00

Prejudgment interest shall run through the date of judgment in this case, November 28, 2011.

This order shall be considered *nunc pro tunc* and post-judgment interest shall run from the date of judgment, November 28, 2011, until the above amounts have been satisfied. Post-judgment interest has been determined to be procedural by the Court and the Court will apply West Virginia law. The West Virginia rate for 2011 and 2012 is 7%, and therefore, post-judgment interest shall accrue on the above award at the rate of \$97.70 per day until the same shall have been satisfied. The Court notes and preserves Defendants' objection to the application of post judgment interest to the award of prejudgment interest.

To all of the foregoing, any party aggrieved may have its exceptions and objections saved and preserved.

ALL OF THE ABOVE IS SO ORDERED.

Entered this 30<sup>th</sup> day of July, 2012.

  
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DAVID W. HUMMEL, JR.  
CHIEF JUDGE

Prepared by:

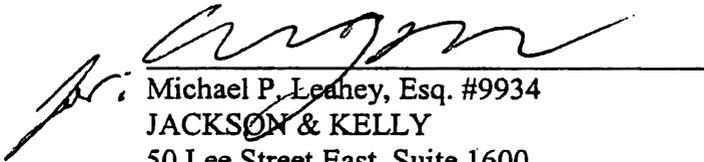


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