

## SUPREME COURT CLARIFIES POST-SETTLEMENT INTEREST

On December 15, 2004, the Ohio Supreme Court clarified and refined its decision in *Hartmann v. Duffey*, in which the Court held that plaintiffs were entitled to post-settlement interest on the amount of the settlement. The case is *Layne v. Progressive Preferred Ins. Co.*

In this case, Progressive settled the plaintiff's claim at a pretrial conference on October 31, 2000, for \$12,500. A week later, on November 7, 2000, Progressive's counsel sent Layne's counsel a settlement check in the amount of \$12,500, a release and a stipulation for dismissal and judgment Entry. The release contained an integration clause that read, "[N]o promise, inducement or agreement not herein expressed has been made to [Layne] and that this release contains the entire agreement between the parties hereto."

Layne signed the settlement agreement on November 15, 2000. Layne's attorney signed the stipulation, which was filed and signed by the judge on November 27, 2000.

In June of 2002, Layne filed suit seeking statutory interest on the \$12,500 settlement between October 31, 2000, the date of the pretrial conference, and November 7, 2000, the date when the settlement check was received, or approximately \$24. Later, counsel filed an Amended Complaint, seeking class action status.

Layne claimed that statutory interest under R.C. §1343.03(A) begins to run on the settlement date, not the date of execution of a release and settlement agreement. Layne relied on *Hartmann v. Duffey*, but the Ohio Supreme Court noted a fundamental difference between *Hartmann* and this case. *Hartmann* decided that interest begins to run on the settlement date, but did not discuss what date is the effective settlement date.

Layne argued that the settlement date was October 31, 2000, when the oral agreement to settle the case was made. Progressive argued that the settlement date is November 15, because the settlement agreement and release contained an integration clause which nullified any prior oral agreement between the parties. The Supreme Court sided with Progressive, holding that where there is an integration clause all prior oral understandings, contracts and negotiations may not be considered.

Layne argued that this holding would allow defendants to delay payment of settlements. The Court noted that the parties who enter into settlement agreements must agree to the date of settlement and the due and payable date.

Justice Pfeifer dissented, indicating that the Court should have taken this opportunity to set a workable rule for the calculation of interest on settlements. He suggested that interest should not run at the moment the last party agrees. Interest should begin to run after a reasonable time has passed for administrative activities. Justice Pfeifer suggests a seven-day period for payment, without calculation of interest.

The Supreme Court has now instructed attorneys on methods to avoid the mostly unworkable rule of the *Hartmann* case. If an integration clause is contained in a settlement agreement and

release, the settlement date becomes the execution date of the settlement agreement. If plaintiffs refuse to sign a release with an integration clause, the parties must agree orally at the time of settlement when interest begins to run. One item the Court did not address was the almost universal understanding that an oral settlement is contingent upon the plaintiff signing a release, and there is no real settlement contract until that time.

***B Frederick P. Vergon, Jr.***  
**Smith Marshall, LLP**  
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