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Gallagher Sharp Newsflash: Prejudgment Interest in Ohio Tort Cases

Today, February 14, 2008, the Supreme Court of Ohio held that the requirement of a "hearing" imposed by R.C. 1343.03(C) mandates a trial court setting a date certain for an evidentiary hearing prior to ruling on a motion for prejudgment interest in a tort lawsuit. The scope and nature of the evidentiary hearing to be conducted, however, is still left to the discretion of the trial court. In *Pruszynski v. Reeves*, Slip Opinion No. 2008-Ohio-510, the Supreme Court ruled, in a 6-1 opinion, that because no evidentiary hearing was ever scheduled by the trial court before it denied plaintiff's motion, the court of appeals did not have authority to order an award of prejudgment interest based solely upon the briefs of the parties.

The *Pruszynski* decision stems from a personal injury lawsuit in which the parents of a child sought damages for injuries the child suffered in a 2002 traffic accident. The driver of the car in which the child was a front-seat passenger swerved at the last second to avoid hitting two bicyclists who were riding at the edge of the road after dusk without legally required lights or reflectors. A jury awarded the plaintiffs \$231,540 in compensatory damages against the cyclists. Following trial, the plaintiffs filed a motion for prejudgment interest based on a claim that the defendants and their insurers had not made a good faith effort to settle the case before trial. Without conducting any type of hearing, the trial court denied that motion.

On appeal to the Eleventh District Court of Appeals, the appellate court reversed the trial court and declared that the plaintiffs were entitled to prejudgment interest, remanding the case with a directive that the trial court calculate the amount to be awarded for prejudgment interest. The Supreme Court reversed the court of appeals on the grounds that it had exceeded the scope of its authority by awarding prejudgment interest when the trial court had not conducted any evidentiary hearing on the plaintiffs' motion. However, because R.C. 1343.03(C) requires an evidentiary hearing and one was not held, the case was remanded to the trial court in order for the hearing to be held before the trial court decided whether to award prejudgment interest.

The *Pruszynski* decision is a clear break from several appellate districts throughout Ohio which had held that no hearing of any sort was required by R.C. 1343.03(C) before a trial court could deny a motion for prejudgment interest if it could be determined from the motion and briefs alone that an award of prejudgment interest was not likely.

The full opinion can be accessed at:

<http://www.sconet.state.oh.us/rod/docs/pdf/0/2008/2008-Ohio-510.pdf>

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