

Prejudgment Interest Computed from Date of Damages Verdict, Not From Date of Liability Stipulation

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The litigation consultants and forensic accountants in Anchin's Litigation, Forensic and Valuation Services Group are often confronted with the calculation of prejudgment interest. When dealing with the issue of prejudgment interest, a critical question that must be answered is from what date is the prejudgment interest computed.

In a recent case¹ reported by the *New York Law Journal*, the question of whether prejudgment interest should be computed from the date there was a verdict as to damages or from the date of the liability was established.

In this case, *Mahoney v. Brockbank*², the defendant conceded liability in plaintiff's personal injury action by way of a stipulation that was entered on May 26, 2011. The question of the amount of damages was left to a jury trial. The stipulation contained no provision regarding prejudgment interest.

On November 12, 2013, after a trial on the issue of damages, the jury returned its verdict awarding the plaintiff \$389,819.49. On January 28, 2014, the Supreme Court decided that prejudgment interest under Civil Practice Law and Rules 5002 would

be computed from the jury's November 12, 2013 verdict and not from the date of the stipulation as to liability.

The Second Department affirmed the Supreme Court, holding that a stipulation as to liability does not trigger the accrual of prejudgment interest under 5002. The Second Department based its affirmation on the premise that had the state's legislature wished to include stipulations, which are voluntary agreements rather than adjudications made by a third party in 5002—under which prejudgment interest runs from the date of the “verdict, report or decision” as to liability, rather than from the date of the “verdict, report or decision” as to damages—it could have easily done so.

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1 Maryann Mahoney v. Harold Brockbank. N.Y. App. Div. 18 Sept. 2015. Web. <<https://www.courts.state.ny.us/courts/ad2/calendar/webcal/decisions/2016/D48511.pdf>>.

2 *Ibid*.