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Brenda N. Taylor

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Carpenter Realty v. Imbesi:
**Judgment Creditor is Not Entitled to Post-Judgment Interest from Date of
an Original Judgment that Was Reversed on Appeal**

By: Brenda N. Taylor

The Court of Appeals of Maryland held a judgment creditor is not entitled to post-judgment interest from the date of an original judgment that was reversed on appeal. *Carpenter Realty Corp. v. Imbesi*, 369 Md. 549, 801 A.2d 1018 (2002). The court further held that unless the court includes a specific instruction to a trial court that post-judgment interest must be awarded dating back to the entry of the original judgment, such award “should rest with the sound discretion of the trial court.” *Id.* at 561, 801 A.2d at 1025.

Thomas Imbesi (“Imbesi”) entered into a Stock Redemption Agreement (“SRA”) with Carpenter Realty (“Carpenter”), 7Up/Baltimore (“7Up”) and several additional 7Up entities. Imbesi later redeemed his corporate stock for \$500,000 plus 5¼% interest and forgiveness of a \$137,158.00 debt he owed to the corporations. The corporations defaulted on the loan in July 1991. Imbesi died on March 10, 1992.

Imbesi’s personal representative filed a lawsuit in the Circuit Court for Baltimore County against Carpenter and 7Up for payment. Carpenter and 7Up filed a counterclaim against the Estate asserting that Imbesi had an

outstanding note in the amount of \$80,000.00 plus 6% interest due and payable to them.

A bench trial ended in a \$57,447.67 judgment for the Estate, which did not include pre-judgment interest. A setoff of the \$80,000 note was not allowed because the corporations had not filed a timely claim for payment against the Estate pursuant to Maryland Code (1974, 1991 Repl. Vol.) Section 8-103 of the Estates and Trusts Article. Carpenter and 7Up appealed. The court of special appeals reversed and remanded for a hearing on whether the note could be used as a setoff.

The circuit court held, in a case of first impression, that the \$80,000.00 note could be used as a defensive setoff despite the running of the statute of limitations under Maryland’s Non-claim Statute, Md. Code Ann., Est. & Trusts § 8-103. The court ordered entry of judgment in favor of Carpenter and 7Up. The Estate appealed and the court of special appeals affirmed. The court of appeals reversed and remanded.

The Estate petitioned the circuit court for entry of judgment for \$57,447.67, prejudgment interest of \$3,588.51 and postjudgment interest of \$30,518.09. Carpenter and 7Up filed a cross-petition conceding \$57,971.27 but

contesting the pre- and post-judgment interest. The Estate was awarded costs, damages, and accrued prejudgment interest. The Estate appealed.

The court of special appeals held the Estate was entitled to receive 10% postjudgment interest commencing on April 4, 1995, the date when judgment was entered in favor of the Estate after the first trial. Carpenter filed a petition for writ of certiorari, which the court of appeals granted.

In its analysis, the Court of Appeals of Maryland first considered Maryland’s statutes governing postjudgment interest. *Carpenter*, 369 Md. at 558, 801 A.2d at 1023. Maryland Rule 2-604(b) provides that “a money judgment shall bear interest at the rate prescribed by law from the date of entry.” *Id.* at 558, 801 A.2d at 1024. Maryland Rule 2-601(b) provides that “the effective date of entry of a judgment is the date on which the clerk of the court prepares a written record of the judgment.” *Id.* at 559, 801 A.2d at 1024.

The court next determined what constituted the date of entry of a judgment when the initial judgment was reversed and remanded and subsequent judgments were entered on the

record. *Id.* at 559, 801 A.2d at 1024. Maryland Rule 8-604(e) provides “[i]n reversing or modifying a judgment in whole or in part, the court may enter an appropriate judgment directly or may order the lower court to do so.” *Id.* at 560, 801 A.2d at 1025. The court stated that “where our mandate specifically directs the entry of a judgment after remand, postjudgment interest on the award runs from the date of issuance of the mandate.” *Id.* at 560-61; 801 A.2d at 1025. When the appellate court fails to give the trial court specific instructions mandating an award of postjudgment interest dating back to the entry of the original judgment, the trial court may use its sound discretion to determine whether to make such an award. *Carpenter*, 369 Md. at 561, 801 A.2d at 1025.

The court next reviewed the history of the case from the entry of the original judgment through the subsequent mandates issued on appeal. *Id.* The April 10, 1995 circuit court order entering judgment in favor of the Estate was a final judgment for purposes of appellate review. *Id.* On August 6, 1996 the court of special appeals issued a mandate that reversed the original judgment and remanded the case; the mandate did not specifically leave the original judgment in place. *Id.* at 562, 801 A.2d at 1026. Either party could have filed a motion to alter, amend, or revise the judgment, requesting the court to leave the original judgment in place. *Id.* at 563, 801 A.2d at 1026.

Motions to alter, amend or

revise judgments are governed by Maryland Rule 2-534. *Id.* This rule provides that on motion of any party filed within ten days after entry of judgment, the court may amend the judgment, or may enter a new judgment. *Carpenter*, 369 Md. at 563, 801 A.2d at 1026. Maryland Rule 2-535 provides that on motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it could have taken under Rule 2-534. *Id.* Maryland Rule 8-431 governs general motions to the court of appeals or court of special appeals. *Id.* Because neither Imbesi nor *Carpenter* filed such a motion, the court stated that the court of special appeals’ reversal eliminated the April 10, 1995 judgment. *Id.* at 567, 801 A.2d at 1029.

The court concluded that for purposes of calculating post-judgment interest, *Carpenter* and 7Up were not required to pay the Estate until the circuit court entered its judgment on October 19, 2000. *Id.* at 567, 801 A.2d at 1029. Post-judgment interest was not awarded because the judgment in favor of the Estate was immediately paid from the escrow account upon entry of the judgment. *Id.* at 568, 801 A.2d at 1029.

The Court of Appeals of Maryland sent a clear message that a judgment creditor is not entitled to postjudgment interest from the date of an original judgment that was reversed on appeal unless the

court’s mandate specifically dictates such an award. To preserve post-judgment interest, attorneys must file a motion requesting the court to include specific instructions for the calculation of such interest from the date of the original judgment in its mandate. Where monetary awards are delayed by appeals, attorneys who make this extra effort protect their clients’ right to interest compensation when the judgment becomes final.