
PLAINTIFF'S AFFIRMATION IN SUPPORT OF PROPOSED JURY

Vlad Kushnir, Esq., an attorney duly licensed to practice law in the State of New York, hereby affirms the following to be true under the penalties of perjury:

1. I am a partner with the law firm of VB KUSHNIR, LLC, Plaintiff, and I am fully familiar with the facts and circumstances surrounding
2. I respectfully submit this Affirmation in support of Proposed Jury
3. This is a property damage matter arising from a fire that occurred in 2013. Exhibit 1 hereto is a true and correct copy of Plaintiff's First Amended Complaint
4. This matter was tried before Honorable Katheryn E. Freed on December 12, 13 and 14, 2018.
5. On December 14, 2018, the jury returned a unanimous verdict awarding Plaintiff \$350,000.00¹ in Plaintiff's favor and against Defendant Efficient Air Solutions, attached as Exhibit 2 hereto.

¹ On December 6, 2018, in lieu of a damages trial, the parties stipulated that \$350,000.00 was Plaintiff's damages.

6. NY CPLR § 5001 provides as follows (in pertinent part):

(a) Actions in which recoverable. Interest shall be recovered upon a sum awarded because of a breach of performance of a contract, or because of an act or omission depriving or otherwise interfering with title to, or possession or enjoyment of, property, except that in an action of an equitable nature, interest and the rate and date from which it shall be computed shall be in the court's discretion.

(b) Date from which computed. Interest shall be computed from the earliest ascertainable date the cause of action existed, except that interest upon damages incurred thereafter shall be computed from the date incurred. Where such damages were incurred at various times, interest shall be computed upon each item from the date it was incurred or upon all of the damages from a single reasonable intermediate date.

7. NY CPLR § 5001 applies in the instant matter because this is a property damage case.

8. Therefore, pursuant to NY CPLR § 5001, Plaintiff is entitled to pre-verdict interest during the period between the date of the fire (February 11, 2013)² and the date of the verdict (December 14, 2018).

9. The time period described in the preceding Paragraph consists of 5 years and 307 days.

10. Pursuant to NY CPLR § 5004, the applicable rate of interest is 9% per year.

11. 9% of \$350,000.00 is \$31,500.00 per year, or \$86.30³ per day.

12. Therefore, pursuant to NY CPLR § 5001, Plaintiff is entitled to \$183,994.00 in pre-verdict interest.⁴

² Upon information and belief, there is no dispute that, for the purpose of NY CPLR 5001, February 11, 2013 (the date of the fire) is the earliest ascertainable date Plaintiff's cause of action existed.

³ $\$31,500.00/365 = \86.30 .

⁴ The calculation is as follows: (1) 5 years X \$31,500.00 per year = \$157,500.00; plus (2) 307 days X \$86.30 per day = \$26,494.00.

13. NY CPLR § 5002 provides as follows:

Interest shall be recovered upon the total sum awarded, including interest to verdict, report or decision, in any action, from the date the verdict was rendered or the report or decision was made to the date of entry of final judgment. The amount of interest shall be computed by the clerk of the court and included in the judgment.

14. Pursuant to NY CPLR § 5004, the rate of interest applicable to NY CPLR § 5002 is also 9% per year.

15. Therefore, per NY CPLR § 5002, Plaintiff is entitled to \$83.30 per day in interest during the period between December 15, 2018 (the first day after the verdict) and the date the Court enters the judgment.

16. Pursuant to NY CPLR § 8201, Plaintiff is entitled to the following costs:

\$200.00 for all proceedings before a note of issue is filed; plus

\$200.00 for all proceedings after a note of issue is filed and before trial; plus

\$300.00 for each trial, inquest or assessment of damages.

17. Therefore, Plaintiff is entitled to \$700.00 in costs.

WHEREFORE, Plaintiff respectfully asks this Honorable Court to sign the proposed judgment submitted herewith.

RESPECTFULLY SUBMITTED,



By: _____

Vlad Kushnir, Esq.
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Trevose, PA 19053
Counsel for Plaintiff

Date: 4/10/19

TO: All counsel of record