

SANDRA NICHOLSON
VERSUS
TRANSIT MANAGEMENT OF
SOUTHEAST LOUISIANA,
D/B/A R.T.A.

***** **NO. 2000-CA-0706**
***** **COURT OF APPEAL**
***** **FOURTH CIRCUIT**
***** **STATE OF LOUISIANA**

TOBIAS, J., CONCURS

I agree with the majority’s opinion, and only concur to discuss my concerns relating to the issue of judicial interest.

The majority correctly summarizes Louisiana jurisprudence on judicial interest. Judicial interest accrues on the following from date of judicial demand: (a) general damages; (b) special damages; and (c) penalties. Judicial interest accrues on attorney’s fees and court costs from the date of judgment specifically determining the dollar amount due.

Although the rule of this circuit holds that judicial interest accrues on all costs of court from date of judgment quantifying the costs (*see, Jackson v. CSX Transportation, Inc.*, 97-0109 (La. App. 4 Cir. 12/23/97), 712 So. 2d 514, 523-24), I find that the rule was derived from an incorrect reading of *Cajun Electric v. Owens-Corning Fiberglas*, 616 So. 2d 645, 647 (La. 1993).

Cajun Electric merely holds that judicial interest accrues on expert witness fees from the date of the judgment determining the dollar amount of the fee to be taxed as costs. Expert witness fees are similar to attorney's fees. The analysis of *Sharbono v. Steve Lang & Son Loggers*, 97-0110 (La. 7/1/97), 696 So. 2d 1382 is consistent with *Cajun Electric*.

I find that judicial interest on court costs (monies paid to the sheriff and clerk of court) should accrue from the date that they are paid by the party paying them because they are a liquidated sum, i.e., a sum certain fixed in accordance with law by a public body or official. Therefore, I would tax judicial interest on those sums retroactive to the date of judicial demand or, alternatively, retroactive to the date that the sheriff or clerk of court actually receives them from a party. When a party pays court costs, the party loses control of the funds paid. The party thus suffers damage from the date of the payment and should be compensated in accordance with La. R.S. 13:4203. As to other costs of court (La. R.S. 13:4533), an item by item analysis of each cost is appropriate to determine from what date judicial interest should accrue- whether from date of judicial demand, date of payment by a party, or date of judgment.