

STATE OF MICHIGAN
COURT OF APPEALS

ERNEST I. YOUNG and SSP, INC.,

Plaintiffs-Appellees,

v

SAULT STE MARIE TRIBE OF CHIPPEWA
INDIANS, d/b/a SAULT STE MARIE
ECONOMIC DEVELOPMENT COMMISSION,

Defendant-Appellant,

and

SPECIAL PLASTIC PRODUCTS
ENGINEERING, LLC,

Defendant.

UNPUBLISHED
February 12, 2004

No. 244434
Oakland Circuit Court
LC No. 98-003943-CZ

Before: Fort Hood, P.J., and Bandstra and Meter, JJ.

BANDSTRA, J. (*dissenting*).

I respectfully dissent. I do so reluctantly because it seems likely that defendant-appellant filed its petition for writ of certiorari in the U.S. Supreme Court, not on the merits, but merely to secure application of the statutory amendment and the resulting lower interest rate on plaintiffs' judgment. Nonetheless, the language of the statute allowed that course of action. Until the U.S. Supreme Court denied the petition, the judgment was "not . . . nonappealable" (i.e., it was appealable), as those words are commonly understood. MCL 600.6013(6). Under MCL 600.6013(6), therefore, the judgment was subject to the lower interest rate afforded by MCL 600.6013(8) and the lower court erred in awarding interest at the higher rate specified in MCL 600.6013(5).

/s/ Richard A. Bandstra