

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION

NINA ALLYN

PLAINTIFF

v.

No. 3:16-cv-115-DPM

BARBARA WOOLARD;  
DEPARTMENT OF AGRICULTURE;  
and LEONE JOHNSON

DEFENDANTS

ORDER

1. The joint report, *No 50*, is appreciated. Allyn's motion for costs, *No 51*, is partly granted and partly denied.

2. Allyn is entitled to costs of \$256.30 – \$165.00 for the filing fee and \$91.30 for Johnson's witness fee. 28 U.S.C. § 1920. The service fees aren't recoverable because the U.S. Marshal didn't handle the service. *Cruet v. KFC Corp.*, 768 F.2d 230, 234 (8th Cir. 1985).

3. The Court overrules Woolard's objection and awards Allyn pre-judgment interest. Arkansas law governs. *Children's Broadcasting Corp. v. Walt Disney Co.*, 357 F.3d 860, 868–69 (8th Cir. 2004); *see generally* HOWARD W. BRILL & CHRISTIAN H. BRILL, *LAW OF DAMAGES* §§ 10:1–10:4 (6th ed. 2014). Allyn is entitled to recover for the income wrongfully withheld, less her share of out-of-pocket expenses. The evidence provided all the needed information

to calculate that amount without any reliance on discretion. It is solely a matter of the proof about the calendar, the crop share rent, the government payment, and the taxes, plus a bit of math. *Reynolds Health Care Services, Inc. v. HMNH, Inc.*, 364 Ark. 168, 180-81, 217 S.W.3d 797, 807 (2005).

Here is the calculation. Ark. Code Ann. § 4-57-101(d) provides the 6% rate. Allyn is entitled to pre-judgment interest on her share of the 2015/2016 net farm income, which was \$3,783.74. That figure reflects \$3,200.35/rent + \$1,021.00/support payment - \$437.61/taxes. That net amount became ascertainable on 31 October 2016, when support payment was made. Interest at 6% from that date until today is \$176.02. Allyn is also entitled to pre-judgment interest on her share of the 2016/2017 farm income so far, which was \$2,777.00. The interest runs from 10 May 2017, when the crop share rent was received, until today. That amount is \$42.00. There was no proof of any 2016 expenses having been paid yet. The total pre-judgment interest awarded is \$218.02.

4. Federal law governs post-judgment interest, *Weitz Co., Inc. v. Mo-Kan Carpet, Inc.*, 723 F.2d 1382, 1385-86 (8th Cir. 1983), which will accrue at 1.23% per annum on the judgment. 28 U.S.C. § 1961(a)-(b).

So Ordered.

D.P. Marshall Jr.  
D.P. Marshall Jr.  
United States District Judge

10 August 2017