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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

DANIEL E. RUFF,)	No. CV-F-05-631 OWW/GSA
)	
)	ORDER DIRECTING PLAINTIFF TO
)	LODGE PROPOSED ORDER RE
Plaintiff,)	PREJUDGMENT INTEREST IN
)	COMPLIANCE WITH MEMORANDUM
vs.)	DECISION FILED ON NOVEMBER
)	30, 2009
)	
COUNTY OF KINGS, et al.,)	
)	
Defendants.)	
)	
)	

The Memorandum Decision filed on November 30, 2009, (Doc. 226), ruled:

Here, prejudgment interest will be awarded from August 25, 2004 to November 23, 2009, less the periods from December 2, 2005, through July 5, 2007, and from December 17, 2007, through August 4, 2008, because of Plaintiff's inexcusable delay in the prosecution of this action. The rate for prejudgment interest shall be determined from the fluctuating 52-week T-Bill rate in effect during this period. Plaintiff shall prepare and lodge within five (5) days an Order setting forth the calculation of and amount of prejudgment interest to be awarded in accordance with this Memorandum Decision.

1 On November 30, 2009, Plaintiff lodged a proposed Order. The
2 proposed Order provides in relevant part:

3 2. Based on the August 25, 2004 inception date, the
4 applicable rate of interest is 1.98%. See
5 <http://www.federalreserve.gov/releases/h1520040823>.
6 This is the average one year Treasury Bill rate in
7 effect as of the inception date.

8 3. Based on the time period of accrual and the
9 applicable interest rate, the accrued prejudgment
10 interest on the \$200,000 judgment is \$12,116.78. This
11 calculation assumes that interest is compounded on a
12 yearly basis at the applicable rate, which is the
13 manner prescribed by 28 U.S.C. § 1961.

14 Because the proposed Order applies a single "average" rate
15 to the entire period, the proposed Order does not comply with the
16 Memorandum Decision's holding that a fluctuating interest rate
17 applies during the applicable period interest is to be recovered.
18 Plaintiff shall prepare and lodge within five (5) days a proposed
19 Order setting forth the calculation of and amount of prejudgment
20 interest to be awarded based on the fluctuating interest rate in
21 accordance with law.

22 IT IS SO ORDERED.

23 Dated: December 3, 2009

24 /s/ Oliver W. Wanger
25 UNITED STATES DISTRICT JUDGE
26