

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BASK MCDONOUGH HOTEL,

Plaintiff,

v.

AMERICAN HOTEL DEVELOPMENT
PARTNERS, LLC ALLESSANDRO A.
GIANNINI and CLYDE J. HARRIS,

Defendants.

CIVIL ACTION NO.

1:10-cv-1883-JEC

ORDER & OPINION

This case is before the Court on defendants' objections to plaintiff's Proposed Order [53].

BACKGROUND

The dispute underlying this litigation arose from a failed attempt to develop a hotel property in McDonough, Georgia. After the venture failed, plaintiff sought to enforce a promissory note obligating the defendants to pay \$180,000. (Note, attached to Jetha Aff. [33] at Ex. 1.) Rejecting the defendants' defenses, the Court granted the plaintiff's motion for summary judgment. (Aug. 2012 Order [52] at 1.) In its ruling, it requested that the plaintiff provide a proposed judgment setting out its calculation of the amount of money owed by defendants and explaining those calculations. (*Id.* at

25.)

Plaintiff submitted its proposed judgment [53], which set out the plaintiff's calculation of prejudgment interest, the principal amount due, and attorney's fees. Specifically, plaintiff requested a judgment in the amounts set out below:

Principal
\$180,000

Prejudgment Interest
\$75,289.31

Attorney's Fees
\$25,553.93

TOTAL JUDGMENT
\$280,843.24

Defendants responded to plaintiff's proposed order, objecting to the plaintiff's assertion that, for purposes of triggering prejudgment interest, the Note went into default on June 3, 2008. Defendants contend that the date of default was May 21, 2010. The difference in this time period represents 717 days. As prejudgment interest is calculated from the time that defendants became liable and as attorney's fees are calculated as a percentage of the total judgment, these additional 717 days incorrectly increased the amount of the judgment, according to defendants. (Resp. to Proposed Order ("Defs. Resp.") [54].)

With a default date of May 21, 2010 and a judgment date of

September 21, 2012,¹ defendants contend that the judgment should be calculated as follows:

Prejudgment Interest

Accrual Period: May 21, 2010 - September 21, 2012 (854 days)

- Daily Interest = $(180,000 \times .12) / 365 = \59.1781 (rounded)
- Interest accrued over 854 days = \$50,538.08

Principal and Interest

- $\$180,000 + \$50,538.08 = \$230,538.08$

Attorney's Fees

- $(.15 \times 500) + ((\$230,538.08 - \$500 \times .1) = \$23,078.81$

Judgment

- $\$230,538.08 + \$23,078.81 = \mathbf{\$253,616.89}$

Id. at 4.

The Court directed the parties to try to resolve this dispute, but they were unable to do so. (Defs.' Rep. Br. [56] at 1.)

DISCUSSION AND RULING

Upon review of the parties' contentions, the Court finds defendants' position as to the date of the default to be persuasive. 3.) Therefore, the defendants correctly assert that prejudgment interest, at the contracted rate of 12% a year, began on May 21, 2010, not on June 3, 2008. Accordingly, the Court has recalculated the plaintiff's proposed judgement, with a judgment date of this day,

¹ September 21, 2012 was the date that the defendants submitted their objection to plaintiffs' calculations.

and enters judgment in the amounts calculated below.

I. CALCULATION OF AMOUNT OWED²

Prejudgment Interest

- Accrual Period: May 21, 2010 - April 4, 2013 (1,049 days)
- Daily Interest = $(180,000 \times .12) / 365 = \59.1781 (rounded)
- Interest accrued over 1,049 days = \$62,077.83

Principal and Interest

- $\$180,000 + \$62,077.83 = \underline{\$242,077.83}$

Attorney's Fees

- $(.15 \times 500) + ((\$242,077.83 - 500) \times .1) = \underline{\$24,232.78}$

Judgment

- $\$242,077.83 + \$24,232.78 = \underline{\$266,310.61}$

CONCLUSION

Accordingly, judgment is hereby entered in favor of plaintiff and against defendants, jointly and severally, in the amount of \$266,310.61. Pursuant to O.C.G.A § 7-4-12(b), this judgment shall bear interest at the rate of 12% per year.

² These figures are taken from defendants' calculations (Defs.' Resp. [54] at 4.), and updated to the date of judgment: April 4, 2012.

SO ORDERED, this 4th day of APRIL, 2013.

/s/ Julie E. Carnes
JULIE E. CARNES
CHIEF UNITED STATES DISTRICT JUDGE