

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARIA BARBOSA, HENRIQUETA)	
BARBOSA, MANUEL BARBOSA,)	
and ANGELA BARBOSA,)	
)	
Plaintiffs,)	
v.)	CIVIL ACTION
THOMAS HYLAND, JESSE DRANE,)	NO. 11-11997-JGD
BRIAN DONAHUE, STEVEN JOHNSON,)	
FRANK BAEZ, EMANUEL GOMES,)	
and LEON McCABE,)	
)	
Defendants.)	

MEMORANDUM OF DECISION AND ORDER
RE INTEREST RATE

January 23, 2014

The parties have been unable to agree as to the prejudgment interest rate which should be applied in the instant case. With respect to the state law claims, “an award of prejudgment interest is a substantive aspect of a remedy formulation which mandates the application of state law to state-law claims in federal court.” Conway v. Electro Switch Corp., 825 F.2d 593, 602 (1st Cir. 1987), and cases cited. Therefore, with respect to those claims, prejudgment interest will be added at the rate of 12% per annum from the date of the commencement of the action. Mass. Gen. Laws ch. 231, § 6B. With respect to federal law claims, however, courts have discretion whether to award prejudgment interest as an element of damages. Conway, 825 F.2d at 602. This discretion applies to the rate of interest as well. Id. The purpose of an award of prejudgment interest is to

make the plaintiff whole. Id. See also Denton v. Boilermakers Local 29, 673 F. Supp. 37, 51 (D. Mass. 1987), and cases cited; FDIC v. Cobblestone Corp., No. 91-12741-Z, 1992 WL 396328, at *1 (D. Mass. Dec. 23, 1992), and cases cited.

Although not obligated to do so, this court will award interest at the prime rate as reported by the Wall Street Journal since the commencement of this action. See Tate v. Troutman, 683 F. Supp. 2d 897, 912 (E.D. Wis. 2010), aff'd, 380 Fed. Appx. 550, 2010 WL 2464993 (7th Cir. June 17, 2010) (court awards average monthly prime rate compounded annually in § 1983 action brought by prisoner for failure to provide constitutionally sufficient care). The prime rate has been 3.25% during the entire pendency of this action. Therefore, on the plaintiffs' federal claims, this court will award 3.25% per annum from the date of the commencement of the action through the date of judgment.

The post-judgment interest rate shall be applied to the entire judgment from the date of the judgment until it is satisfied. 28 U.S.C. § 1961.

 / s / Judith Gail Dein

Judith Gail Dein
U.S. Magistrate Judge