

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IAN NOEL,

Plaintiff,

v.

No. 6:06-CV-788

NEW YORK STATE OFFICE OF MENTAL
HEALTH CENTRAL NEW YORK
PSYCHIATRIC CENTER,

Defendant.

APPEARANCES:

OF COUNSEL:

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KELLY L. MUNKWITZ, ESQ.
CHRISTINA L. ROBERTS-RYBA, ESQ.
DAVID B. ROBERTS, ESQ.

DAVID N. HURD
United States District Judge

DECISION & ORDER

In accordance with the decision and order entered on July 30, 2010, the parties submitted memoranda as to the amount of post-judgment interest owed on the second amended judgment. Both parties agree that the applicable interest rate is calculated pursuant to 28 U.S.C. § 1961(a). Under § 1961(a), interest on a monetary judgment entered in a federal district court accrues “from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of

Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment.” 28 U.S.C. § 1961(a).

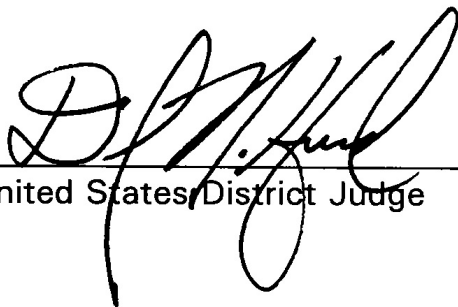
Attached as exhibit A to defendant’s memorandum of law is the Federal Reserve System’s statistical release of yields for 1-year Treasury constant maturities for the calendar week prior to the entry of the first judgment on May 8, 2008. As reflected by defendant’s exhibit, the average of the yields beginning from Monday, April 28, 2008 until Friday, May 2, 2008 is 1.93%. Accordingly, the applicable interest rate for the judgment entered in favor of the plaintiff is 1.93%.

The parties acknowledge that defendant made separate payments, with interest, to plaintiff’s trial and appellate counsel for attorneys’ fees and costs. As a result, the only remaining issue is the amount of interest owed on plaintiff’s damages award of \$280,000 beginning from May 8, 2008. Between May 8, 2008 and May 7, 2009, interest accrued in the amount of \$5,404.00. Between May 8, 2009 and March 25, 2010, \$4,859.42 in interest accrued. This latter figure represents a pro-rata determination of the interest accrued during the three-hundred-twenty-two day period (88.22% of one year) between May 8, 2009 and March 25, 2010. On March 25, 2010, defendant sent plaintiff a “settlement” check in the amount of \$139,582.52. Accordingly, post-judgment interest after March 25, 2010 accrued on only the \$150,680.90 still owed to the plaintiff after receipt of the “settlement” check. Interest thereafter accrued between March 26, 2010 until July 30, 2010 in the amount of \$1,011.74. As with the interest calculated for between May 8, 2009 and March 25, 2010, the interest between March 26, 2010 and July 30, 2010 represents a pro-rata determination of the interest accrued during the relevant one-hundred-twenty-seven day period (34.79% of one year). The total accrued interest is therefore \$11,275.16.

Accordingly, it is

ORDERED that

1. The post-judgment interest owed on the second amended judgment from May 8, 2008 until July 30, 2010 is \$11,275.16; and
2. The Clerk of the Court is directed to enter a third amended judgment in favor of the plaintiff in the sum of \$164,987.59 plus post-judgment interest at a rate of 1.93% beginning from July 31, 2010.



United States District Judge

Dated: August 16, 2010
Utica, New York