

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

DOUGLAS PFENNING	:	
Plaintiff	:	CASE NO. 3:14-cv-00471-TMR
vs.	:	JUDGE THOMAS M. ROSE
LIBERTY LIFE ASSURANCE COMPANY OF BOSTON	:	
Defendant.	:	<b><u>JUDGMENT ORDER</u></b> <b><u>AWARDING PLAINTIFF'S FEES,</u></b> <b><u>COSTS, AND PREJUDGMENT</u></b> <b><u>INTEREST</u></b>
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The Court rendered judgment on the administrative record in favor of the Plaintiff on June 28, 2017 (Doc. 31 and Clerk's Judgment Doc. 32).

On August 3, 2017, Plaintiff filed his Motion for Attorney Fees and Costs (Doc. 33); Defendant responded to Plaintiff's Motion on August 23, 2017 (Doc. 34); and Plaintiff filed his Reply on September 6, 2017 (Doc. 35). On October 19, 2017, the Court ruled in favor of Plaintiff's Motion for Attorney Fees and Costs (Doc. 36) and granted prejudgment interest at the following rates: 3% for 2014; 3% for 2015; 3% for 2016; and 4% for 2017.

It is therefore Ordered that:

1. Defendant shall pay Attorney Fees to Plaintiff for litigation of the claim in District Court and the Court of Appeals in the amount of \$120,362.00;
2. Defendant shall pay costs to Plaintiff in the amount of \$905.00; and
3. Defendant shall pay prejudgment interest on the net amount of benefits wrongfully withheld from Plaintiff, after Social Security offset was taken.

Prejudgment interest is calculated as follows:

(1)  $\$1,636.40$  (LTD payment per month) x 9 months (March 19, 2014 – December 31, 2014) =  $\$14,727.60$  (total LTD benefits owed for this period) x 3% =  **$\$441.83$**  (total amount of prejudgment interest in 2014);

(2)  $\$1,636.40$  x 12 months (January 1, 2015 - December 31, 2015) =  $\$19,636.80$  (total LTD benefits owed for this period) x 3% =  **$\$589.10$**  (total amount of prejudgment interest owed in 2015);

3)  $\$1,636.40$  x 3 months (January 1, 2016 - March 19, 2016) =  $\$4,909.20$  (total LTD benefits owed for this period) x 3% =  **$\$147.27$**  (total amount of prejudgment interest in 2016);

4) March 20, 2016 - December 31, 2016 - Total amount owed for own occupation period is  $\$39,273.60$  x 3% =  $\$1,178.20$  (annual interest) / 12 months =  $\$98.18$  per month x 8 months =  **$\$785.44$** .

5) January 1, 2017 - June 28, 2017 - Total amount owed for own occupation period is  $\$39,273.60$  x 4% =  $\$1,570.94$  (annual interest) / 12 months =  $\$130.91$  per month x 7 months =  **$\$916.38$** .

Therefore, the total amount of prejudgment interest owed to Mr. Pfenning is  **$\$2,880.02$** .

This proposed judgment has been reviewed by the attorneys of record who have sought the approval and consent of their clients. All parties agree that there will be no objection to the calculations or form of this Order.

**SO ORDERED.**

October 27, 2017

s/Thomas M. Rose

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Thomas M. Rose  
United States District Judge