

STATE OF MICHIGAN
COURT OF APPEALS

KALLIE KAY ROESNER,

Plaintiff-Appellee.

UNPUBLISHED
May 26, 1995

No. 160331
LC No. 91-109950-CK

AUTO CLUB INSURANCE ASSOCIATION, a/k/a AAA,

Defendant-Appellant.

Before: Jansen, P.J., and Corrigan and T.G. Kavanagh,* JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's December 8, 1992, order holding it liable to plaintiff for statutory interest, under MCL 600.6013; MSA 27A.6013, on an award of taxable costs and attorney fees. We affirm.

In deciding this issue, the trial court observed that a split of authority exists regarding whether interest under MCL 600.6013; MSA 27A.6013 may properly be granted on an award of costs and attorney fees. Compare Giannetti Brothers Const Co v City of Pontiac, 175 Mich App 442, 450; 438 NW2d 313 (1989), and cases cited therein (holding that interest may not be granted), with The Wayne-Oakland Bank v Brown Valley Farms, Inc., 170 Mich App 16, 22-23; 428 NW2d 13 (1988), and cases cited therein (holding that interest may be granted). The trial court chose to follow the latter line of authority.

The Legislature recently amended MCL 600.6013; MSA 27A.6013, pursuant to 1993 PA 78, to explicitly provide that "[i]nterest under this subsection shall be calculated on the entire amount of the money judgment, including attorney fees and other costs" (emphasis added). Although the amendment does not apply to cases filed before October 1, 1993, see 1993 PA 78, § 4(3), we believe that it demonstrates, as the trial court found, that the Wayne-Oakland Bank line of authority represents the better point of view.

Furthermore, we disagree with defendant's claim that this Court's decision in Farmers Ins Group v Lynch, 186 Mich App 537; 465 NW2d 21 (1990), constitutes binding precedent under Administrative Order 1990-6, as extended, and requires a different result. First, Farmers Ins Group does not address the issue of statutory interest on an award of costs and attorney fees. Second, although Farmers Ins Group was approved for publication on November 9, 1990, it was initially released as an unpublished opinion per curiam before November 1, 1990, the effective date of Administrative Order 1990-6. Therefore, Farmers Ins Group is not binding precedent under Administrative Order 1990-6. People v Cooke, 194 Mich App 534, 537; 487 NW2d 497 (1992).

Accordingly, we find that the trial court did not err in awarding statutory interest on the award of taxable costs and attorney fees.

Affirmed.

I concur in result only.

/s/ Kathleen Jansen
/s/ Thomas G. Kavanagh

/s/ Maura D. Corrigan

*Former Supreme Court Justice, sitting on the Court of Appeals by assignment.