



Kleiman v. Wright

2022 | Cited 0 times | S.D. Florida | March 8, 2022

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA Case No.
18-cv-80176-BLOOM/Reinhart IRA KLEIMAN, et al., Plaintiffs, v. CRAIG WRIGHT, Defendant.

ORDER ON MOTION TO AMEND FINAL JUDGMENT THIS CAUSE is before the Court upon Plaintiff Motion to Alter or Amend Judgment to Add Prejudgment Interest, ECF No. [860]

Defendant Craig Wright to the Motion, ECF No. [870] W&K filed a Reply, ECF No. [874]

the record in this case, the applicable law, and is otherwise fully advised. For the reasons set forth below, the Motion is granted.

I. BACKGROUND

On February 14, 2018, the Estate of David Kleiman initiated this action concerning a dispute over the ownership of bitcoins and bitcoin-related

intellectual property. ECF No. [1]. On January 14, 2019, Plaintiffs filed the operative Second Amended Complaint ECF No. [83] conversion (Count I); unjust enrichment (Count II); misappropriation (Count III); violation of the

Defense of Trade Secrets Act (Count IV); breach of fiduciary duty (Count V); breach of partnership duties of loyalty and care (Count VI); fraud (Count VII); constructive fraud (Count

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2 VIII); permanent injunction (Count IX); and civil theft (Count X). 1

Following a 21-day jury trial commencing on November 1, 2021, the jury awarded \$100,000,000.00 to W&K for conversion of intellectual property. ECF No. [812]. On December 7, 2021, the Court entered Final Judgment

Plaintiff W&K now seeks to amend the Final Judgment to include prejudgment interest in the amount of \$43,132,492.48. See generally ECF No. [860]. Specifically, W&K argues that, under i.e. Id. commencement of prejudgment interest, there can be no dispute that November 6, 2013 is the



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Id. at 3. In so arguing, W&K points out neither party denied that Defendant seized control over the intellectual property at issue under the auspices of two Australian Court Judgments Id. Id. Id. (quoting

ECF No. [487] at 16) (alteration in original). Thus, W&K seeks prejudgment interest from November 6, 2013 (the date of conversion) through December 7, 2021 (the date of Final Judgment). Id. at 3-4.

Defendant responds that he at 1. However, Defendant maintains that W&K is entitled to \$500,767.04, at most, in prejudgment

interest. Id.

1 misappropriation (Count III) and violation of the Defense of Trade Secrets Act (Count IV) under a preceding version of the Complaint. See ECF No. [68].

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3 interest only from the date the jury adopted for the valuation of the intellectual property, through Id. at 3. its valuation . . . , W&K argued and requested that its damages should be awarded based on the

Id. T instructions to the jury, any award of prejudgment interest should be measured from October 30,

judgment on December 7, 2021. Id. at 3-4. 2

Defendant further argues that awarding W&K eight W&K an improper windfall, because the jury did not Id. at 5.

W&K replies that at 2 (citing ECF No. [870] at 3) (internal citation omitted). namely

Id. at 2. According to W&K, in light of the evidence t property had a \$100 million value from at or near the intellectual property increased over the years. Id. at 3. W&K further argues that Defendant has

2 For purposes of calculating conversion damages, the Court instructed the jury as follows:

If you find for the Estate of David Kleiman or W&K on conversion, you should award the Estate of David Kleiman or W&K the quantity of assets, if any, you determine were converted and the value of those assets. Plaintiffs are entitled to the highest value of the assets between the time of conversion and the date of your verdict. ECF No. [851] at 40:15-20; see also ECF No. [800-1] at 18.



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4 failed to present any evidence showing Id. at 5.

II. LEGAL STANDARD

Rule 59(e) of the Federal Rules of Civil Procedure permits a party to file a motion to alter or amend a judgment within 28 days after the entry of the judgment. Fed. R. Civ. P. 59(e). The United States Supreme Court and the Eleventh Circuit Court of Appeals have made clear that a

Exxon Shipping Co. v. Baker, 554 U.S. 471, 485 n.5 (2008); see also Stansell v. Revolutionary Armed Forces of Columbia, 771 F.3d 713, 746 (11th Cir. 2014); In re Kellogg, 197 F.3d 1116, 1119 (11th Cir. 1999) (recognizing -discovered evidence or manifest errors Arthur v. King motion cannot be used to relitigate old matters, raise argument or present evidence that could have

or amend a judgment is , 958 F.2d 1044, 1047 (11th Cir. 1992); see also Stansell, 771 F.3d at 746.

III. DISCUSSION

A. Entitlement to Prejudgment Interest The parties agree that Plaintiff W & K is entitled to recover prejudgment interest on its damages award for conversion of intellectual property. The W&K, as requested, is entitled to prejudgment interest from November 6, 2013 through December 7, 2021. In this diversity case, the availability of prejudgment interest is governed by state law. See SEB S.A. v. Sunbeam Corp. In a diversity case we

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5 follow the state law governing the award of Royster Co. v. Union Carbide Corp., 737 F.2d 941, 948 (11th Cir. 1984))) (alteration adopted).

Under Florida law, Argonaut Ins. Co. v. May Plumbing Co., 474 So. 2d 212, 214 (Fla. 1985). The purpose

of the award of prejudgment interest is to make the plaintiff whole from the date of the loss once Sterling Villages of , 255 So. 3d 870, 872 (Fla. 4th DCA 2018) (quoting Capitol Env Servs., Inc. v. Earth Tech, Inc., 25 So. 3d 593, 597 (Fla. 1st DCA 2009). -of-pocket, pecuniary losses, plaintiff is entitled, as a matter of law, to prejudgment interest at the statutory rate from the date of that Argonaut, 474 So. 2d at 215 the court to add the appropriate amount of interest to the principal amount of damages awarded in ; see also Lacroze, 255 So. 3d at SP Healthcare Holdings, LLC

v. Surgery Ctr. Holdings, LLC, 208 So. 3d 775, 780 (Fla. 2d DCA 2016))).



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A court, however, has discretion to deny or reduce prejudgment interest if the award would be inequitable. See *Validsa, Inc. v. PDVSA Servs., Inc.*, 424 F. App x 862, 878 (11th Cir. 2011) see also *Broward Cnty. v. Finlayson*, 555 So. is not recovered according to a rigid theory of compensation for money withheld, but is given in response to *Flack v. Graham*, 461 So. 2d 82, 84 (Fla. 1984)). Equitable considerations that may affect an award of prejudgment interest include:

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6 (1) in matters concerning government entities, whether it would be equitable to put the burden of paying interest on the public in choosing between innocent victims; (2) whether it is equitable to allow an award of prejudgment interest when the delay between injury and judgment is the fault of the prevailing party; (3) whether it is equitable to award prejudgment interest to a party who could have, but failed to, mitigate its damages. *Wiand v. Lee*, 753 F.3d 1194, 1204 (11th Cir. 2014) (citing *Blasland, Bouck & Lee, Inc. v. City of N. Miami*, 283 F.3d 1286, 1297 (11th Cir. 2002)).

property and awarded W&K damages in the amount of \$100,000,000. Upon review of the record, the Court agrees with W&K that it is entitled to prejudgment interest from November 6, 2013 i.e., the date Defendant committed the tort of conversion. See *Argonaut*, 474 So. 2d at 215

Plaintiff is to be made whole from the date of the loss once a finder of fact has determined the amount of damages and defendant's liability therefor. see also *Kenet v. Bailey*, 679 So. 2d 348, *Sargent v. Midlantic Nat. Bank*, 358 So. 2d 855, 856 (Fla. 2d DCA 1978) (affirming

3

Although the jury did not specify a particular date of loss, it is clear from the evidence in the record that Defendant committed the tort of conversion on November 6, 2013. See *SEB S.A.*, at particular date of loss, so long as a date is see also

3 *Devengoechea v. Bolivarian Republic of Venezuela*, No. 12-CV-23743-PCH, 2014 WL 12489848, at *3 on which [defendant] committed the tort of conversion of the [property] and the appropriate date for determining the amount of prejudgment interest to be assessed In re *James*, 124 B.R. 614, 616-17 (Bankr. M.D. Fla. 1991), , 152 B.R. 994 value of the property converted, together with interest at the legal rate from the date of the conversion to

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7 *Vining v. Martyn*

loss set o Indeed, at no point did the parties dispute that



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November 6, 2013. See ECF No. [829-131]; ECF No. [829-132]. Additionally, as W&K correctly points out -barred, Defendant took the position that at 13.

Defendant does not dispute that W&K is entitled to prejudgment interest, nor does he challenge that the intellectual property was converted on November 6, 2013. See generally ECF No. [870]. Rather, Defendant

Id. at 3- result would award W&K an improper windfall, because the jury did not award it damages based

Id. at 5. The Court is not persuaded.

Upon review of the evidence in the record, the Court finds no basis for Defendant ECF No. [870] at 3. Indeed, the should run from October 30, 2021 is based on a social media post by Defendant proclaiming that

-118:17. Ba billion, half of the 252 i -23. However, the jury verdict supports

the conclusion that the jury declined to accept the \$252 valuation, given that the verdict established to be \$100 million and not \$126 billion. ECF No. [812].

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8 \$100 D \$276,268,599. ECF No. [829-50] at 56. 4

While there is evidence in the record from which the jury could have found that the value of the intellectual property increased over the years, it is clear that the jury declined to credit that evidence. 5

Thus, consistent with valuation of the intellectual property performed within five months of the conversion.

Accordingly, the Court concludes that there would be no unfairness or windfall that would result from an award of prejudgment interest from the date of conversion.

B. Calculation of Prejudgment Interest Having determined that W&K is entitled to prejudgment interest from November 6, 2013 to December 7, 2021, the Court must now calculate the pre-judgment interest rate in accordance with Fla. Stat. § 55.03; see also *Regions Bank v. Maroone Chevrolet, L.L.C.*, 118 So. 3d 251, 257- 58 (Fla. 3d DCA 2013) (statutory rate of prejudgment interest set in Fla. Stat. § 55.03). The amount of prejudgment interest owed is \$43,132,492.48, calculated as follows:



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DATE RATE AMOUNT 11/06/2013 - 12/31/2013 4.75%

\$728,767.20 (56 days, \$13,013.70 daily) 01/01/2014 - 12/31/2014 4.75%

\$4,750,000.00

(full year) 01/01/2015 - 12/31/2015 4.75%

\$4,750,000.00 1(full year)

4 Based upon the judicially noticed April 2, 2014 exchange rate of 0.9236 for U.S. Dollars to Australian Dollars, the valuation amounts to \$255,161,678 half of which is \$127,580,839. See ECF No. [851] at 27:14-21; ECF No. [800-1] at 7. 5 Indeed, it appears that the jury declined to credit additional evidence that assigned a value to the intellectual property that was higher than the amount awarded. See ECF No. [826-34] at 10 (\$1.9 billion valuation); ECF No. [829-53] at 24 (\$378,475,713 valuation).

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9 01/01/2016 - 12/31/2016 4.75%

\$4,750,000.00

(full year) 01/01/2017 - 12/31/2017 4.97%

\$4,970,000.00

(full year) 01/01/2018 - 12/31/2018 5.53%

\$5,530,000.00

(full year) 01/01/2019 - 12/31/2019 6.33%

\$6,330,000.00

(full year) 01/01/2020 - 12/31/2020 6.83%

\$6,830,000.00

(full year) 01/01/2021 - 12/07/2021 4.81%

\$4,493,725.28 (341 days, \$13,178.08) IV. CONCLUSION



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Accordingly, it is ORDERED AND ADJUDGED as follows:

1. The Motion, ECF No. [860], is GRANTED. 2. The Court will separately enter an Amended Final Judgment reflecting the

prejudgment interest to be awarded. DONE AND ORDERED in Chambers at Miami, Florida, on March 8, 2022.

_____ BETH BLOOM UNITED STATES DISTRICT JUDGE Copies
to: Counsel of Record

