

IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

RYAN FERGUSON,
JEFFREY L. NICHOLS,
WILLIAM J. WESTBROOK,
JOHN R. SHORT,
LLOYD SIMMONS III,
LATISHA M. STROER, AND
BRYAN E. LIEBHART

Plaintiffs,

v.

Case No. 20AC-CC00276

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, AND
TRAVELERS INDEMNITY
COMPANY, D/B/A
ST. PAUL TRAVELERS COMPANIES,
INC., A/K/A
THE TRAVELERS COMPANIES

Defendants.

**PLAINTIFF RYAN FERGUSON'S
 FIRST MOTION TO AMEND JUDGMENT**

Comes now Plaintiff, Ryan Ferguson, by and through counsel, Michael G. Berry, Newman, Comley and Ruth, P.C. and Kathleen T. Zellner, Kathleen T. Zellner & Associates, P.C., pursuant to Rules 75.01, 78.07, and moves the Court to amend its Judgment of June 16, 2025. This motion addresses only that part of the Court's Judgment computing prejudgment interest through February 7, 2025, instead of computing prejudgment interest through the entire prejudgment period

until the date of Judgment, June 16, 2025. Ferguson will be also filing a motion to amend or modify directed to the constitutionality of Section 510.265, RSMo., as applied to reduce the jury's punitive damages award. For the instant motion, Ferguson states:

The Court erred in failing to award prejudgment interest for the 129 day period between February 7, 2025, to the date of judgment, June 16, 2025. Ferguson moves the Court to re-compute the judgment amount to account for this interval of 129, and to amend the Court's judgment accordingly, as suggested more specifically below.

1. The Court awarded prejudgment interest at the correct rate of interest (7.33%), and from the correct starting date for accrual (January 16, 2018).
2. The principal amount of the Court's Judgment is based on reducing the jury's punitive damages award by applying Section 510.265, RSMo. Though Ferguson intends to challenge the constitutionality of Section 510.265 as applied to the Court's Count I bad faith Judgment, he prepares the instant motion as if Section 510.265 is applicable to reduce judgment on the jury's verdict as the Court has ruled. He does so without waiving his constitutional challenge.
3. In awarding prejudgment interest through the date of February 7, 2025, the Court's Judgment does not include interest accruing during the ensuing 129 days of the prejudgment period ending on the date of Judgment, June 16, 2025.

This computation is understandable because Ferguson's counsel submitted proposed judgments to the Court, proposing judgment amounts through the date of February 7, 2025, the date when the Court last held a hearing in this case.

4. In summary, interest accruing during this interval of 129 days adds a total of \$1,339,421.78 to the Count I bad faith Judgment on the jury's verdict, and \$124,968.98 per annum, \$324.38 per diem, to post judgment interest. Ferguson now moves the Court to amend its judgment because of the significance of these amounts. The re-computation is explained below.

5. Adding 129 days of prejudgment interest at the rate of 7.33%, to the compensatory damages figure of \$3,181,557.24, increases the "net judgment" (compensatory damages and prejudgment interest) by \$82,421.50.

6. Increasing the net judgment by \$82,421.50 supports an additional award of \$412,107.50 in punitive damages, calculated by multiplying \$82,421.50 by the statutory cap of 5 set out in Section 510.265, RSMo.

7. Adding \$412,107.50 to the total punitive damages judgment supports \$217,618.65 of additional prejudgment interest, accruing from the date of January 16, 2018 (the date computation of prejudgment interest began) to the Judgment date of June 16, 2025.

8. Interest accruing at 7.33% over 129 days between February 7, 2025 through June 16, 2025, on the amount of punitive damages the Court has awarded

in its Judgment (\$24,213,829.75), adds another \$627,284.13 of prejudgment interest to the Count I Judgment as entered.

9. Adding together the increased amounts set out in paragraphs 5, 6, 7, and 8 above adds a total of \$1,339,421.78 to the total Count I Judgment amount.

10. Finally, applying the post judgment interest rate of 9.33% to the revised Count I Judgment amount of \$1,339,421.78 adds \$124,968.98 per annum, \$324.38 per diem, to post judgment interest.

11. It is fair, just, and equitable that the prejudgment interest award account for the entire period during which Travelers retained the benefit of holding the substantial amount of money represented by the principal amount of the Court's June 16, 2025 Judgment.

WHEREFORE, plaintiff, Ryan Ferguson, moves the Court to amend or its Judgment of June 16, 2025, to include prejudgment interest on compensatory damages and punitive damages at the rate of 7.33% per annum through the date of the Judgment, June 16, 2025.

NEWMAN, COMLEY & RUTH P.C.

/s/ Michael G. Berry

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ATTORNEYS FOR PLAINTIFF,
RYAN FERGUSON

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served electronically upon all counsel of record on this 20th day of June, 2025.

/s/ Michael G. Berry

Michael G. Berry