Changes to the Statutory Post-judgment Interest Framework

By Jonathan P. Whitney, Esq.
Lutz, Bobo, Telfair, Dunham & Gabel

Generally, judgments for liquidated money damages accrue post-judgment interest. The accrual of interest serves two purposes: 1) to encourage the judgment debtor to promptly satisfy the judgment; and 2) to compensate the judgment creditor for their loss of the use of their money. Absent a written contractual provision specifically establishing the post-judgment rate of interest, the post-judgment rate of interest is controlled by Florida Statutes 55.03. A newly revised §55.03 came into effect on July 1, 2011. The changes are threefold: 1) Florida's Chief Financial Officer is now required to establish the interest rate quarterly rather than annually, 2) the statutory interest is now based on a lower fixed constant; and 3) the statutory interest rate is now re-applied annually to existing judgments.

A brief review of the prior version of §55.03 ("Prior Version") will help illustrate the changes. The Prior Version mandated that the Chief Financial Officer ("CFO") annually establish the post-judgment rate of interest effective on January 1. The CFO determined the rate by averaging the discount rate of the Federal Reserve Bank of New York for the preceding year, then adding 500 basis points. Once the rate was established, that rate remained effective for the entire year. Prior to the recent amendment, the CFO calculated that the 2011 interest rate would equal 6%. If you had obtained a final judgment while the Prior Version remained in effect, the judgment amount would accrue interest at 6% for the entire life of the judgment.

Under the newly enacted version of §55.03, the CFO calculates the rate in the same manner but adds only 400 basis points rather than 500 to the average Federal Reserve Bank of New York discount rate. New interests rates will be 1% less than they historically were under the predecessor statute. The amendment further requires that the CFO establish the post-judgment rate of interest quarterly rather than annually. The CFO must therefore establish the rate for the calendar quarters beginning on January 1, April 1, July 1, and October 1. For instance, the CFO recently announced that the statutory rate of interest for the October 1 quarter equals 4.75%. That interest rate will apply to judgments entered through the remainder of the year rather than the 6% rate established for judgments entered earlier in the year.

Finally, the rate at which a judgment will accrue interest adjusts annually. Recall that under the Prior Version, the judgment accrued interest during its entire life at the then-effective rate. A judgment will now accrue interest at the initial rate effective during the quarter in which it was entered and then adjust to the interest rate newly established for January 1 of each subsequent year.

For example, Plaintiff obtains a judgment on October 1, 2011. As established for that quarter, the judgment would accrue interest at the rate of 4.75%. Assume that the rate established for the quarter beginning January 1, 2012 equals 5%. Plaintiff's judgment would then accrue interest at 5% for the remainder of 2012. Of course, the annual adjustment would need to occur on January 1, 2013 and annually onward until that judgment is paid. It goes without saying that the judgment holder will need to pay close attention to the CFO's established rates for both determining the applicable initial rate of interest, as well as the annual adjusted rate when calculating payoff amounts on a final judgment.

One issue that the Legislature failed to address in their newly-revised §55.03 is whether judgments entered before its effective date will now be subject to the annual interest rate fluctuation. In other words, for a judgment entered prior to July 1, 2011, when the judgment rate remained a constant for the life of the judgment, does the newly-enacted version now require annual interest rate adjustments? Or do the annual rate adjustments only apply to judgments entered after July 1, 2011? Your comments are welcome as to the issue.