

High Interest on Jury Verdict Not Unconstitutional

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In a recent case of the Massachusetts Supreme Judicial Court, the court unanimously held in *Greene, v. Philip Morris USA, Inc.* that the accrual of statutory interest at a rate of 12% a year, on a verdict, per M.G.L. c. 231, §6b, was not unconstitutional.

The case came before the court on appeal of a jury verdict finding Philip Morris liable for civil conspiracy and unfair trade practices. The jury awarded Plaintiff, Patricia Walsh Greene, a decades long smoker of Marlboro cigarettes, \$9 million dollars in compensatory damages, which the judge trebled to \$27 Million pursuant to M.G.L. c. 93A – Massachusetts’ Consumer Protection Act. Taken in conjunction with awarded attorney’s fees and \$7 million in pre-judgement interest (“interest award”), Plaintiff was awarded more than \$37 million.

The interest award was statutorily imposed under M.G.L. c. 231 §6b, which prescribes for 12% interest annually on actions resulting in a verdict. In appealing the interest award, Philip Morris noted that M.G.L. c. 231 §6b was enacted in 1982 – when national interest rates were higher. Now, Philip Morris maintained, this interest rate amounts to a “tremendous windfall” for the plaintiffs and a violation of Philip Morris’s due process rights because they unduly influence defendants to settle. Philip Morris’s arguments were not successful.

Justice Scott K. Kafker, writing for the Supreme Judicial Court, reasoned that the interest accrual was commensurate with stock market returns over the same period and was, therefore, neither “irrational” nor “punitive.” He further noted that the accrued interest “ensures the plaintiffs...are fully compensated for the loss of the time value of their money...,” and is similar, if not identical, to interest rates in other jurisdictions, including Vermont, Rhode Island, and New York.