

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JODI A. SCHWENDIMANN, f/k/a JODI
A. DALVEY

Civil No. 11-820 (JRT/HB)

Plaintiff,

ORDER

v.

ARKWRIGHT ADVANCED COATING,
INC.

Defendant.

ARKWRIGHT ADVANCED COATING,
INC.

Counterclaim Plaintiff,

v.

JODI A. SCHWENDIMANN, f/k/a JODI
A. DALVEY and COOLER CONCEPTS,
INC.

Counterclaim Defendants.

Kurt J. Niederluecke, , **FREDRIKSON & BYRON, PA**, 200 South Sixth
Street, Suite 4000, Minneapolis, MN 55402, for Arkwright Advanced
Coating, Inc.

On July 30, 2018, the Court held that Plaintiff Jodi Schwendimann was entitled to
prejudgment interest in the amount of \$1,915,328, which reflected a 10% simple annual
rate applied from July 6, 2010, to the date of judgment entry, and applied to the jury's \$2.62

million verdict pursuant to Minn. Stat. § 549.09. (*See* Mem. Op. & Order at 50-53, 62, July 30, 2018, Docket No. 884.) The Court declined to apply the 10% interest rate to the final settlement offer of Defendant Arkwright Advanced Coating, Inc. (“AACI”) and declined to apply it only through the date of the settlement offer pursuant to Minn. Stat. § 549.09(b) because “AACI did not submit evidence that this settlement offer was written, and Schwendimann’s reply confirm[ed] that it was a verbal offer.” (Mem. Op. & Order at 52.) In its memorandum in opposition to Schwendimann’s request for prejudgment interest, AACI did not cite to any written offer in the record. (Def.’s Opp’n at 9-10, Dec. 11, 2017, Docket No. 798.) In reply, Schwendimann stated that “AACI has no writing to offer in support of its arguments because it never made such a written offer” and that AACI’s settlement offer was “verbal.” (Pl.’s Reply Mem. at 13, Dec. 21, 2017, Docket No. 860.)

On August 2, 2018, AACI filed a Request to File a Motion for Reconsideration, pointing out that AACI’s final settlement offer was made via email to Schwendimann’s counsel on September 27, 2017, and that that email was part of the record in this case as part of AACI’s opposition to Schwendimann’s request for prejudgment interest. (Letter, Aug. 2, 2018, Docket No. 886; Decl. of Laura L. Myers ¶ 27, Ex. Z, Dec. 11, 2017, Docket No. 808.)

The Court will convert AACI’s request into a motion for reconsideration and order Schwendimann to file a prompt response.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED THAT** AACI's Request to File a Motion for Reconsideration [Docket No. 886] is hereby **CONVERTED** into a Motion for Reconsideration. **IT IS FURTHER ORDERED THAT:**

1. Schwendimann shall file her Responsive Memorandum and supporting documents to AACI's Motion for Reconsideration on or before August 10, 2018.

a. Schwendimann's Memorandum shall be limited to (1) whether the Court should hold that Schwendimann's prejudgment interest is limited to interest only on AACI's final settlement offer and only through the date of the offer pursuant to Minn. Stat. § 549.09(b) because the offer was, in fact, written, (*see* Mem. Op. & Order at 52, July 30, 2018, Docket No. 884); and (2) the amount of prejudgment interest the Court should award if the Court grants AACI's Motion to Reconsider and amends the judgment accordingly.

b. Schwendimann's Memorandum shall not exceed 4,000 words.

c. In Schwendimann's Memorandum, Schwendimann's counsel shall explain the factual and legal basis for the statements in Schwendimann's Reply Brief that "AACI has no writing to offer in support of its arguments because it never made such a written offer" and that AACI's settlement offer was "verbal." (Pl.'s Reply Mem. at 13, Dec. 21, 2017, Docket No. 860.) *See* Fed. R. Civ. P. 11(b).

2. AACI may file a Reply Memorandum and supporting documents on or before August 15, 2018. AACI's Reply Memorandum shall not exceed 2,000 words.

AACI's Reply Memorandum shall include AACI's view on the amount of prejudgment interest the Court should award if the Court grants AACI's Motion to Reconsider and amends the judgment accordingly.

3. Having found that good cause exists, pursuant to Federal Rule of Appellate Procedure 4(a)(5), the time to file a notice of appeal of the Court's July 31, 2018 judgment is hereby extended until September 28, 2018.

DATED: August 3, 2018
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
Chief Judge
United States District Court