

New Illinois Law Allows Prejudgment Interest on Damages in Certain Lawsuits

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An amendment to the Illinois Code of Civil Procedure provides that for all actions brought to recover damages for personal injury or wrongful death, prejudgment interest of six percent will begin to accrue on the date the action is filed. Prejudgment interest does not apply to punitive damages, sanctions, statutory attorney's fees, and statutory costs.

On May 28, 2021, Illinois Governor J.B. Pritzker signed [Public Act 102-0006](#), amending section 735 ILCS 5/2-1303 of the Illinois Code of Civil Procedure. The amendment becomes effective on July 1, 2021.

The amendment applies to claims based on negligence, willful and wanton misconduct, intentional conduct, or strict liability. The amendment, however, does not define the term "personal injury," so its impact on employment-related claims is uncertain.

If the judgment is greater than the amount of the highest written settlement offer made by the defendant in the last 12 months after the later of the effective date of the new law or the filing of the lawsuit and is not accepted by the plaintiff within 90 days after the offer or is otherwise rejected by the plaintiff, six percent interest will be added to the judgment in the amount equal to the difference between the amount of the judgment, minus punitive damages, sanctions, and statutory attorney's fees and costs and the amount of the highest written settlement offer.

If the judgment is equal to or less than the highest written settlement offer, no prejudgment interest will be applied to the judgment.

For injuries that occur before the effective date of the new law, prejudgment interest will begin to accrue on the later of the effective date or the date the lawsuit is filed. In any event, no prejudgment interest will accrue for longer than five years.

Because interest begins to accrue when a lawsuit is filed, and because lawsuits often take several years to resolve, the new law may significantly increase a defendant's financial exposure in actions involving personal injuries or wrongful death.

For more information on litigation risk management practices, please contact the Jackson Lewis attorney with whom you regularly work.

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