

# Court of Claims of Ohio

The Ohio Judicial Center  
65 South Front Street, Third Floor  
Columbus, OH 43215  
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A.P.M. TECHNOLOGY, INC.

Plaintiff/Counter Defendant

v.

OHIO PENAL INDUSTRIES

Defendant/Counter Plaintiff  
Case No. 2007-08899

Judge Joseph T. Clark

## JUDGMENT ENTRY

{¶ 1} On November 30, 2010, the magistrate issued a decision recommending judgment for defendant/counter plaintiff in the amount of \$226,198. On December 22, 2010, defendant/counter plaintiff filed a motion for prejudgment interest.

{¶ 2} The Tenth District Court of Appeals has held that “the failure to include prejudgment interest in the prayer for relief operates as a waiver of such a claim.” *Cugini & Capoccia Builders, Inc. v. Ciminello's, Inc.*, Franklin App. No. 06AP-210, 2006-Ohio-5787, ¶34, citing *Salvi v. Dunbar* (Dec. 23, 1993), Franklin App. No. 93AP-1059; *G&S Mgmt. Co. v. Commercial Union Ins. Cos.* (June 3, 1993), Franklin App. No. 92AP-1429.

{¶ 3} Inasmuch as defendant/counter plaintiff's prayer for relief did not seek a specific award for prejudgment interest, nor did the remainder of the counterclaim expressly seek prejudgment interest, such claim was waived. *Id.* Accordingly, defendant/counter plaintiff's motion for prejudgment interest is DENIED.

{¶ 4} Civ.R. 53(D)(3)(b)(i) states, in part: “A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not

the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i).” No objections were filed.

{¶ 5} The court determines that there is no error of law or other defect evident on the face of the magistrate’s decision. Therefore, the court adopts the magistrate’s decision and recommendation as its own, including findings of fact and conclusions of law contained therein. Judgment is rendered in favor of defendant/counter plaintiff in the amount of \$226,198. Court costs are assessed against plaintiff/counter defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

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JOSEPH T. CLARK  
Judge

cc:

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