

**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF IDAHO**

<b>IN RE</b>	)	
	)	
<b>FRANK CHAPIN and</b>	)	<b>Case No. 02-20218-TLM</b>
<b>SYDNEY CHAPIN,</b>	)	
	)	
<b>Debtors.</b>	)	<b>MEMORANDUM OF DECISION</b>
	)	
_____	)	
	)	
<b>THE ESTATE OF CHRISTINA</b>	)	
<b>LEAF,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Adversary No. 02-6135-TLM</b>
	)	
<b>FRANK CHAPIN, SYDNEY</b>	)	
<b>GUTIERREZ CHAPIN, and</b>	)	
<b>FINANCIAL MANAGEMENT</b>	)	
<b>SERVICES, INC.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	
_____	)	

On March 31, 2005, Judgment was entered in this case for Plaintiff declaring a \$372,851.08 debt nondischargeable as to Defendant Frank Chapin. On April 11, 2005, Plaintiff filed a "Motion for Additional Findings of Facts." See Doc. No. 53 ("Motion"). Plaintiff seeks additional factual findings supporting

calculation and an award of prejudgment interest. A hearing was held on April 26, 2005, and the matter was taken under advisement.

Plaintiff's Motion suggests a method for calculating prejudgment interest on the judgment amount, and it advances alternate interest rates under state and federal law. However, Plaintiff did not present the Court with any actual interest calculations, nor did Plaintiff present any proposed findings of fact. As expressed by the Court at hearing, these defects may prevent the Court from entering the relief sought.<sup>1</sup>

However, notwithstanding any deficiencies in Plaintiff's Motion, the Court concludes Plaintiff waived at trial its claim to prejudgment interest. This conclusion was expressly noted in the Court's Memorandum of Decision: "[T]he Leaf Estate waived any prejudgment interest on [the judgment] amount." Doc. No. 51 at 26-27.

In the Motion and at hearing, Plaintiff emphasized its request for interest in both its complaint (Doc. No. 1 at paragraph 6.9) and its pretrial brief (Doc. No. 38 at 9). However, the Court's conclusion regarding waiver was based on Plaintiff's

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<sup>1</sup> In basic terms, a motion for additional findings contends that preponderating evidence was introduced at trial supporting findings that the Court neglected to make. That is not the case here. Plaintiff certainly presented no direct evidence regarding prejudgment interest. Whether Plaintiff introduced sufficient "preliminary" evidence from which additional facts could be developed and findings made is debatable. Though the suggested approach presents an interesting question, the Court need not resolve it.

discussion with the Court *at trial* regarding Plaintiff's calculation of damages.<sup>2</sup>

The audio record of this colloquy includes the following:

Court: One of the things that leaps out at me is that there is no accounting for lost value of the estate, if you will, the "interest" that the funds would have earned. Is that intentional? Is that something that you haven't found either evidence or methodology to present to the Court so you are leaving it out for simplification, or what?

Plaintiff: That is correct, Your Honor. I am leaving it out for simplification. Because the practicalities of this case are that, regardless of the amount that is determined by this Court to be nondischargeable, Dr. Leaf is aware he will probably never recover it. And to spend more time and money trying to figure out interest rates and the law pertaining to interest rates is not productive.

This constitutes a waiver of Plaintiff's claim to prejudgment interest, and forecloses the relief Plaintiff now seeks.

Based on the foregoing, the Motion will be denied. A separate order will be entered by the Court.

DATED: May 5, 2005



A handwritten signature in black ink, appearing to read "Terry L. Myers".

TERRY L. MYERS  
CHIEF U. S. BANKRUPTCY JUDGE

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<sup>2</sup> In its closing arguments at trial, Plaintiff used an illustrative exhibit showing its damage calculations, and discussed at length its position on the amount of damages to be awarded.

CERTIFICATE RE: SERVICE

A “notice of entry” of this Decision, Order and/or Judgment has been served on Registered Participants as reflected by the Notice of Electronic Filing. A copy of the Decision, Order and/or Judgment has also been provided to non-registered participants by first class mail addressed to:

Frank L. Chapin  
P.O. Box 781  
Sandpoint, ID 83864

Case No. 02-6135-TLM (Estate of Christina Leaf v. Chapin)

Dated: May 5, 2005

/s/Jo Ann B. Canderan  
Judicial Assistant to Chief Judge Myers