

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

**02-1031
Consolidated with 02-1032, 02-1033,
02-1034, 02-1035, & 02-1036**

MICHAEL BONIN, ET AL.

VERSUS

FERRELLGAS, INC., ET AL.

ON REHEARING ON APPLICATION ON APPEAL FROM THE
NINTH JUDICIAL DISTRICT COURT
PARISH OF RAPIDES, NUMBER 202,595 C/W 202,596, 202,597, 202,598,
202,599 and 202,600
HONORABLE DONALD T. JOHNSON, DISTRICT JUDGE

**BILLIE COLOMBARO WOODARD
JUDGE**

Court composed of Ulysses Gene Thibodeaux, Billie Colombaro Woodard, and Glenn B. Gremillion, Judges.

REHEARING GRANTED IN PART, DENIED IN PART.

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WOODARD, Judge.

ON REHEARING

We grant the Plaintiffs' request for rehearing for the limited purposes of clarifying that National Union Fire Insurance Company of Pittsburgh, Pennsylvania (National Union) is cast, in judgment, *in solido*, for all amounts against "Empire" (Empire Gas Corporation, Empire Gas, Inc. of Lake Charles) and of casting upon Empire and National Union costs of the lower court proceedings, including expert fees. The total amount cast is \$35,212.87, as follows:

Dr. Hebert's expert witness fee	\$2,000.00
Dr. Douglas Womack's expert witness fee	\$2,000.00
Physician fees for medical depositions	\$12,374.00
Deposition/video reporting fees	\$11,572.62
Court reporters for trial services	\$7,266.25

Further, we impose legal interest against Empire and National Union from the date Plaintiffs made judicial demand against Empire.¹

On the contrary, Plaintiffs ask that we use September 8, 1995, when they first filed suit against Ferrellgas and its employee. However, we do not find that the cases, which Plaintiffs cited, justify imposing interest on Empire and National Union from September 8, 1995. These cases justify the imposition of legal interest before demand was made on the party cast in judgment, only, when there is a special relationship between the party sued in the original demand and the party, who was added at a later date, such as a party and his or her insurer.

Thus, the cases support the imposition of legal interest in the instant case against National Union from the date judicial demand was made against Empire, its insured, even though National Union was not yet a party on July 12, 1996. However, there is no relationship between Ferrellgas and Empire which can warrant the imposition of legal interest from the date of Plaintiffs' original demand against Ferrellgas.

When there are multiple defendants, generally, we impose interest on the party cast in judgment by calculating interest from the date judicial demand was made

¹La.R.S. 13:4203.

*against that party.*² Since Plaintiffs did not add Empire as a Defendant until July 12, 1996, we impose legal interest on, both, Empire and National Union from this date.

We find no merit to the issues that Empire and National Union raise in their application for rehearing. Accordingly, we deny their request.

REHEARING GRANTED IN PART, DENIED IN PART.

²*Cook v. Deshautreaux & Klein Pediatric Clinic*, 315 So.2d 405 (La.App. 4 Cir. 1975).