

**Arkansas Public Entities Risk Management Association
(APERMA)
Legal Defense Group**

RALPH C. OHM - GENERAL COUNSEL

211 HOBSON AVENUE
POST OFFICE BOX 1558
HOT SPRINGS NATIONAL PARK, AR 71902-1558
TELEPHONE 501-624-7555
FACSIMILE 501-624-7575
aperma@hotspringlaw.net

C. BURT NEWELL
(501) 321-2222

NICK R. WINDLE
(501) 624-7555

November 4, 2010

Mr. Hunter Hanshaw
Attorney at Law
P.O. Box 2155
Jonesboro, AR 72402

Re: Harvey Edwards vs. City of Jonesboro, et al.
Craighead County Circuit No. CV-2005-385 (JF)

Dear Hunter:

This letter will confirm that we have spoken about Friday's hearing on your Petition for Attorneys' Fees; that we have agreed you will visit with Andrea Hicks and have the case removed from this Friday's docket and be replaced on the docket January 7, 2011. In the interim you will seek clarification from Judge Fogelman concerning the issue of whether additional proof may be taken at the hearing or whether the Judge should rule on your Petition based upon the record from trial. I have no objection if you write the Court asking clarification with a copy to me.

Also, I want to clarify a very important point which you mentioned concerning the imposition of costs and interests on the Judgment from this case; which was tried in September 2008.

You have indicated that you believe Dr. Edwards is entitled to interest upon this Judgment from and after its entry by the Court on October 13, 2008, initially, with an Amended Order being issued on November 17, 2008.

Dr. Edwards entered the State appellate process in the year 2009, and at the end of 2009 Judge Fogelman made a ruling granting costs upon the original Judgment, but that Order was entered on January 12, 2010. In the interim, you had filed a Federal lawsuit seeking identical

relief, which has subsequently been dismissed and is on appeal at the Eighth Circuit.

Our conversation the other day centered around Dr. Edwards' entitlement to interest upon the Judgment in light of these proceedings. I indicated to you in my letter of January 13, 2010, that the City needed you to advise, in writing, as to how Dr. Edwards proposed for the City to satisfy the Judgment. This was, of course, since the appellate process had ended and a final Order had been entered by the Court on collateral issues. I never heard back from you in that regard. I followed up on February 1, 2010, with another letter to you again asking you to let me know how Dr. Edwards proposed for the City to satisfy the Judgment. That letter also indicated that the City was willing to make the payment, but we just needed to hear from Dr. Edwards as to the details. I again had no response to that letter.

As I indicated to you on the phone, it is the position of the City of Jonesboro that Dr. Edwards is not entitled to any interest on the Judgment given that: a) Dr. Edwards choose to appeal the Judgment rather than seeking that it be satisfied initially; b) after the Judgment was subject to a dismissed appeal, the City requested payment instructions, which it considers as a tender of payment; c) Dr. Edwards has never once asked to be paid on the Judgment, but instead has continued the litigation process in U.S. District Court.

All this being said, I believe the City is not liable to Dr. Edwards for interest on the Judgment given its willingness to pay at all times and Dr. Edwards' refusal to accept the same.

You indicated that it would be acceptable now for the City to tender its check based upon the Judgment; but you declined to enter a satisfaction of Judgment on all pending litigation in exchange. Refusal to issue a satisfaction of Judgment is clear evidence that Dr. Edwards does not want the case to end and therefore, is not entitled to interest on the Judgment, which he finds unacceptable.

If you choose to respond, please do so. Best personal regards.

Very truly yours,

C. Burt Newell

CBN/mlr

cc: Mayor Harold Perrin
Phillip Crego