

from a retailer of a repair part where the retailer previously has failed to return the repair part to the wholesaler, manufacturer or distributor after being offered a reasonable opportunity to return the repair part at a price not less than ~~80~~ 85 percent of the net price of the repair part as listed in the then current price list or catalog. This section shall not require the repurchase from a retailer of repair parts which have a limited storage life or are otherwise subject to deterioration, such as rubber items, gaskets and batteries; repair parts in broken or damaged packages; single repair parts priced as a set of two or more items; and repair parts which because of their condition are not resalable as new parts without new packaging or reconditioning.

Sec. 5. Minnesota Statutes 1986, section 325E.06, is amended by adding a subdivision to read:

Subd. 7. SUCCESSOR IN INTEREST. The obligations under this section of a wholesaler, manufacturer, or distributor apply to its successor in interest or assignee. A successor in interest includes a purchaser of assets or stock, a surviving corporation resulting from a merger or liquidation, a receiver, and a trustee of the original wholesaler, manufacturer, or distributor.

Sec. 6. **EFFECTIVE DATE.**

The provisions of sections 1 to 5 are effective the day after enactment and apply to contracts now in effect that have no expiration date and are a continuing contract, and all other contracts entered into or renewed after the day of enactment. Any contract in force and effect on the day of enactment, which by its terms will terminate on a date subsequent thereto and which is not renewed is governed by the law as it existed before the day of enactment.

Approved April 12, 1988

CHAPTER 503—H.F.No. 1493

An act relating to civil law; deleting the minimum percentage amount for interest on judgments; altering the application of joint and several liability; providing for payment of future damages; amending Minnesota Statutes 1986, section 604.02, subdivision 1; Minnesota Statutes 1987 Supplement, section 549.09, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 549; repealing Minnesota Statutes 1986, section 604.07.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1987 Supplement, section 549.09, subdivision 1, is amended to read:

Subdivision 1. **WHEN OWED; RATE.** (a) When the judgment is for the recovery of money, including a judgment for the recovery of taxes, interest from

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the time of the verdict or report until judgment is finally entered shall be computed by the court administrator as provided in clause (c) and added to the judgment.

(b) Except as otherwise provided by contract or allowed by law, preverdict or prereport interest on pecuniary damages shall be computed as provided in clause (c) from the time of the commencement of the action, or the time of a written settlement demand, whichever occurs first, except as provided herein. The action must be commenced within 60 days of a written settlement demand for interest to begin to accrue from the time of the demand. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 60 days. After that time interest on the judgment shall be calculated by the judge in the following manner. The prevailing party shall receive interest on any judgment from the time the action was commenced or a written settlement demand was made, or as to special damages from the time when special damages were incurred, if later, until the time of verdict or report only if the amount of its offer is closer to the judgment than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment, whichever is less, and only from the time the action was commenced or a written settlement demand was made, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (3), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict or prereport interest shall not be awarded on the following:

(1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;

(2) judgments, decrees, or orders in dissolution, annulment, or legal separation actions;

(3) judgments for future damages;

(4) punitive damages, fines, or other damages that are noncompensatory in nature;

(5) judgments not in excess of the amount specified in section 487.30; and

(6) that portion of any verdict or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court.

(c) The interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States treasury bills, calculated on a bank discount basis as provided in this section.

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On or before the 20th day of December of each year the state court administrator shall determine the rate from the secondary market yield on one year United States treasury bills for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the federal reserve system. This yield, rounded to the nearest one percent, shall be the annual interest rate during the succeeding calendar year; ~~provided, however, that in no event shall the rate of interest be less than eight percent per annum.~~ The state court administrator shall also determine the average rate of interest on judgments to be used during the succeeding calendar year for computation of the discount rate under section 604.07, subdivision 4. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and the discount rate under section 604.07.

When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

Sec. 2. [549.25] FUTURE DAMAGES; PAYMENT.

Where a claimant is awarded an amount representing future damages greater than \$100,000, the court shall hold a hearing prior to ordering entry of judgment to allow the claimant to consider whether payment of the future damages over time as the damages are incurred is in the best interests of the claimant. The following factors may be considered at the hearing, as well as any others as justice requires:

(1) the claimant's financial ability to meet obligations likely to be incurred as a result of the injury at issue in the trial;

(2) the advantages, if any, to the claimant from voluntarily entering into a structured settlement; and

(3) the interests of the claimant in self-determination over the claimant's financial affairs.

If the claimant decides, after the hearing, that structured payments of future damages would be in the claimant's best interests, the court shall make available information to assist the claimant in seeking an appropriate financial instrument to provide such payments. Judgment may not be entered until the claimant has

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notified the court that the claimant does not wish to enter into a structured settlement.

Sec. 3. Minnesota Statutes 1986, section 604.02, subdivision 1, is amended to read:

Subdivision 1. When two or more persons are jointly liable, contributions to awards shall be in proportion to the percentage of fault attributable to each, except that each is jointly and severally liable for the whole award. Except in cases where liability arises under chapters 18B - pesticide control, 115 - water pollution control, 115A - waste management, 115B - environmental response and liability, 115C - leaking underground storage tanks, and 299E - pipeline safety, public nuisance law for damage to the environment or the public health, any other environmental or public health law, or any environmental or public health ordinance or program of a municipality as defined in section 466.01, a person whose fault is 15 percent or less is liable for a percentage of the whole award no greater than four times the percentage of fault, including any amount reallocated to that person under subdivision 2.

If the state or a municipality as defined in section 466.01 is jointly liable, and its fault is less than 35 percent, it is jointly and severally liable for ~~an amount~~ a percentage of the whole award no greater than twice the amount of fault, including any amount reallocated to the state or municipality under subdivision 2.

Sec. 4. INJURY COMPENSATION STUDY.

The speaker of the house of representatives and the majority leader of the senate shall each appoint three persons to a commission to study the civil justice system and current and alternative methods of compensating injured persons. Not later than January 1, 1990, the study commission shall report its findings to the legislature along with any recommendations for legislative action.

Sec. 5. REPEALER.

Minnesota Statutes 1986, section 604.07, is repealed.

Sec. 6. APPLICATION; EFFECTIVE DATE.

Sections 2 and 3 apply to causes of action arising on or after their effective dates. Sections 1 and 5 are effective the day following final enactment and apply to all cases pending or brought on or after that date.

Approved April 12, 1988

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