STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0390

Dr. Wayne R. Freese, et al.,
Respondents,

vs.

Dr. Reed Leiting, et al., jointly and severally,
Appellants.

Filed November 13, 2023
Affirmed in part, reversed in part, and remanded
Connolly, Judge

Nobles County District Court
File No. 53-CV-22-1238

Kevin K. Stroup, Barry R. Gronke, Jr., Stoneberg, Giles & Stroup, P.A., Marshall, Minnesota (for respondents)

Bradley A. Kletscher, Tyler W. Eubank, Barna, Guzy & Steffen, Ltd., Minneapolis, Minnesota (for appellants)

Considered and decided by Connolly, Presiding Judge; Bjorkman, Judge; and Cleary, Judge.*

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

On appeal from a judgment confirming an arbitration award and granting preaward interest, appellants argue that the district court erred in (1) entering a monetary judgment

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

against them for the amount of the arbitration award; and (2) granting preaward interest. We affirm in part, reverse in part, and remand.

FACTS

Appellants Dr. Reed Leiting, Dr. Steven Dudley, and Dr. Brian Dorcey, and respondents Dr. Wayne R. Freese (Dr. Freese) and Marc A. Freese (Marc Freese), were business partners in several business ventures, including the following four entities: Veterinary Medical Center P.A.; Prairie Livestock Supply, Inc.; VMC Laboratories, Inc.; and Lime Creek Ag. Services, Inc.[1] Respondents' interests in the corporate entities varied. The parties also shared ownership in several other entities, including Ani-Logics Outdoor, Inc. (ALO) and Prairie Holdings Group (PHG).

In May 2019, appellants discovered that PHG had been giving special treatment to ALO, which was principally owned and operated by respondents. Consequently, the trust between the parties fractured, and the parties agreed to separate their interests. The parties attempted to settle their business interests through mediations. During this process, a potential buyer for the corporate entities was found.

In August 2020, the parties entered into a mediation agreement, which provided that, if the sale of the corporate entities closed as anticipated, respondents would be paid $2,422,600 out of the sale proceeds from the buyer. Pursuant to the mediation agreement, respondents were required to transfer their ownership interests in the corporate entities to appellants so that the sale could be completed. The agreement also provided an alternative

[1] The four business entities will hereinafter be referred to as the "corporate entities."

"[i]n the event the transaction with [the buyer] does not close." The agreement stated that, in such a situation, appellants "will pay a New Purchase Price for all interests in the [corporate entities] to [respondents] within 120 days of the date on which the . . . transaction is terminated unequivocally. The New Purchase Price will be the fair market value of [respondents'] interests in the [corporate entities] as determined by three arbitrators."

Respondents transferred their interests in the corporate entities as required by the mediation agreement, but the sale of the corporate entities did not close as anticipated. As a result, the alternative provisions of the mediation agreement were triggered, and on May 28, 2021, respondents demanded arbitration consistent with the mediation agreement. In the meantime, the initial potential buyer purchased the corporate entities at a reduced price.

In July 2021, the parties executed a "Settlement Term Sheet," in which they agreed that the purchase price determined by the arbitration panel would be offset by $750,000 due to issues related to ALO. The parties also executed an arbitration agreement, which provided:

> The parties mutually consent to the resolution by final and binding arbitration of the New Purchase Price in United States dollars for [respondents'] interest in the [corporate entities] based on the fair market value of [respondents'] interest in the [corporate entities]. The arbitrators shall have no other authority to make any further determination, except as reasonable and appropriate to have orderly procedures and determine the New Purchase Price.

Respondents served a detailed claim for arbitration in January 2022, which calculated the fair market value of the corporate entities to be $4,764,971, including interest. Respondents later hired experts to reevaluate and establish the fair market value

of the corporate entities. By September 2022, respondents' valuation of the corporate entities had dropped to $2,900,265. Conversely, appellants' settlement counteroffer valued the corporate entities at $2,055,277.

In November 2022, the arbitration panel issued its award finding the fair market value of Dr. Freese's and Mark Freese's interests in the corporate entities to be $1,438,869 and $918,458, respectively. Consequently, the arbitration panel determined that the "New Purchase Price for [respondents'] interest in the corporate entities" is $2,357,327. The arbitration panel also found that the "New Purchase Price does not include a $750,000 reduction pursuant to the parties' July 7, 2021 Settlement Term Sheet. That $750,000 reduction is to be implemented by the parties." Finally, the arbitration panel found that respondents' prejudgment-interest claim "remains open and is not determined at this time. The arbitrators conclude that, under the parties' arbitration agreement, the arbitrators had no authority to consider the issue of prejudgment interest."

In December 2022, respondents moved to confirm the arbitration panel's decision. Respondents also sought preaward interest on the amount of the New Purchase Price, from the date of the demand for arbitration through the date of the arbitration award. A few days after respondents filed their motion, appellants paid the amount of the New Purchase Price to respondents. The parties agreed that "acceptance of th[e] payments by [respondents] does not constitute a release, waiver or settlement of their claims for pre-award interest (the Motion pending with the Court) and that such pre-award interest claim remains open for decision by the Court."

The district court confirmed the arbitration award in the amount of $2,357,327 and "awarded pre-award interest in the amount of $333,255.59 jointly and severally against [appellants]." The district court also entered judgment against appellants for the amount of the New Purchase Price plus preaward interest. This appeal follows.

DECISION

I.

Appellants argue that the district court erred by entering a monetary judgment against them for the amount of the New Purchase Price of the corporate entities because the arbitration award was a declaration of the purchase price and not a monetary award, and the judgment for the amount of the New Purchase Price was rendered moot by appellants' payment of the arbitration award to respondents. Appellants also contend that, in the alternative, the district court erred by entering a monetary judgment for the total amount of the New Purchase Price because the parties had agreed to certain offsets.

A. Declaration of the purchase price or a monetary award

Minnesota law provides:

> After a party to the arbitration proceeding receives notice of an award, the party may file a motion with the court for an order confirming the award, at which time the court shall issue such an order unless the award is modified or corrected pursuant to section 572B.20 or 572B.24 or is vacated pursuant to section 572B.23.

Minn. Stat. § 572B.22 (2022).

Appellants assert that, under the parties' mediation agreement, the arbitration panel was to determine the "New Purchase Price [that] will be the fair market value" of the

corporate entities. Appellants contend that, pursuant to this agreement, the arbitration panel then "declared" the amount of the New Purchase Price; it "did not find that [r]espondents were entitled to a monetary judgment in this amount," it "did not find that [r]espondents had been damaged in this amount," and it "did not order that [a]ppellants pay this amount to [r]espondents." (Emphasis omitted.) But appellants claim that by "entering a monetary judgment against [a]ppellants, the [d]istrict [c]ourt found that [r]espondents were entitled [to] $2,357,327, which was neither what the evidence showed nor what the Panel found." Thus, appellants argue that the district court "impermissibly modified the declaration" of the arbitration panel, which requires reversal of the judgment entered against appellants.

We are not persuaded. Minnesota Statutes section 572B.25(a) (2022) provides that "[u]pon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court *shall* enter a judgment in conformity therewith." (Emphasis added.) Thus, the plain language of section 572B.25(a) required the district court to enter judgment against appellants upon granting the order confirming the arbitration award. *See* Minn. Stat. § 645.44, subd. 16 (2022) (stating that "'[s]hall' is mandatory").

Moreover, the arbitration agreement provided that "[t]he Arbitrator's award is final, binding and enforceable in a court of competent jurisdiction, and *judgment may be entered upon the award in accordance with the applicable law*." (Emphasis added.) This language indicates that the parties specifically contemplated that judgment may be entered upon the award in accordance with Minnesota law. And the arbitration panel found that respondents

were "entitled" to the fair market value of their respective interests in the corporate entities. Although the arbitration panel did not find that respondents were entitled to a judgment, there is no indication that the district court impermissibly modified the arbitration award when it entered a judgment against appellants. Rather, the district court merely granted respondents' request to confirm the arbitration panel's decision that respondents were "entitled" to the fair market value of the corporate entitles. Entering a judgment against appellants for this amount is consistent with the arbitration panel's decision that respondents were "entitled" to the fair market value of the corporate entities.

Appellants argue that two cases, *Gaughan v. Gaughan*, 450 N.W.2d 338 (Minn. App. 1990), *rev. denied* (Minn. Mar. 16, 1990), and *Ehlen v. Rice*, No. C2-99-482 (Minn. App. July 27, 1999), are "instructive," and support their position that the district court erroneously entered judgment on the arbitration award. But *Ehlen* is of limited value because it is a nonprecedential opinion. *See Skyline Vill. Park Ass'n v. Skyline Vill. L.P.*, 786 N.W.2d 304, 309-10 (Minn. App. 2010) (recognizing that nonprecedential opinions from this court "are of persuasive value at best and not precedential" (quotation omitted)). Moreover, *Ehlen* and *Gaughan* are distinguishable because those cases concern interest on awards. In contrast, the issue presented here is whether the district court erroneously entered a judgment on the arbitration award. As addressed above, the parties' arbitration agreement specifically contemplated the entry of judgment upon the arbitration award "in accordance with applicable law." The arbitration panel determined that respondents were "entitled" to the amount awarded and the district court's entry of judgment on the arbitration award is consistent with section 572B.25(a). And appellants cite no law stating

that judgment cannot be entered on an arbitration award that is merely a "declaration" of the award. As such, appellants cannot show that the district court's entry of judgment on the arbitration award was inconsistent with the plain language of section 572B.25(a).

B. Appellants' payment of the arbitration award

Appellants also contend that the district court erroneously entered judgment on the arbitration award because the "issue of the New Purchase Price has been rendered moot as a result of Appellants paying the New Purchase Price." But as stated above, Minn. Stat. § 572B.25(a) provides that "[u]pon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity therewith." The district court's entry of judgment is consistent with this statute. Although appellants paid the amount of the arbitration award, the amount of prejudgment interest was still outstanding. Because the prejudgment interest was still outstanding, entry of judgment was appropriate. Accordingly, appellants cannot show that the district court erred by entering judgment against appellants for the full amount of the arbitration award.

C. Agreed-upon offsets

In the alternative, appellants argue that, because the parties had agreed to certain offsets, "including $750,000 related to [ALO]," the district court erred by entering a monetary judgment for the total amount of the New Purchase Price. We disagree. The district court was asked to confirm the arbitration award, determine if respondents were entitled to preaward interest, and calculate the amount of preaward interest if respondents were so entitled to such interest. The district court was never asked to determine the

amount respondents were owed after the offsets. In fact, the arbitration panel specifically noted in its findings and award that the "$750,000 reduction is to be implemented separately by the parties." The district court rendered a decision consistent with respondents' motion to confirm the arbitration award and then entered a judgment in accordance with Minn. Stat. § 572B.25(a). Although appellants cite *Elm Creek Courthome Ass., Inc. v. State Farm Fire and Cas. Co.*, 971 N.W.2d 731, 735 (Minn. App. 2022), *rev. denied* (Minn. May 17, 2022), and *Casey v. State Farm Mut. Auto Ins. Co.*, 464 N.W.2d 736, 738 (Minn. App. 1991), *rev. denied* (Minn. Apr. 5, 1991), for the proposition that "[w]hen entering a monetary judgment, a court should exclude amounts which the parties were not deprived," those cases do not stand for the proposition for which they are cited because the *entry of judgment* was not challenged in those cases. And appellants cite no other authority supporting their position. Accordingly, we conclude that the district court did not err by entering a monetary judgment for the total amount of the New Purchase Price as determined by the arbitration panel.

II.

Appellants challenge the district court's award of preaward interest on the arbitration award, arguing that preaward interest was inappropriate because the district court had no authority to award such interest; respondents did not suffer any damages; and respondents were not the prevailing party. Finally, appellants argue, in the alternative, that the district court erred in calculating the amount of preaward interest.

Minnesota Statutes section 549.09, subdivision 1 (2022), governs prejudgment interest. Under this section, the party requesting prejudgment interest bears the burden of

proving it is entitled to that interest. *Elm Creek*, 971 N.W.2d at 741 n.7. We review de novo the interpretation of the prejudgment-interest statute and a district court's decision regarding prejudgment interest. *Blehr v. Anderson*, 955 N.W.2d 613, 618 (Minn. App. 2021).

A. District court's authority to award preaward interest

Appellants contend that the district court "had no authority to award prejudgment interest." To support their position, they cite Minnesota's Revised Uniform Arbitration Act, which provides that a district court only has the authority to confirm an arbitration award under Minn. Stat. § 572B.22, vacate the award under Minn. Stat. § 572B.23 (2022), or modify the award under Minn. Stat. § 572B.24 (2022). Appellants argue that, because respondents requested preaward interest from the arbitration panel and it was not granted, the proper procedure would have been to seek a modification of the award under section 572B.24, which respondents failed to pursue. Thus, appellants argue that the district court was "precluded from allowing prejudgment interest and entering judgment on the prejudgment interest against appellants."

Appellants' reliance on sections 572B.20-.24 is misplaced; rather, the applicable statute is Minn. Stat. § 549.09 because it governs prejudgment interest. This statute provides: "The prevailing party *shall* receive interest on any judgment or award from the time of . . . a demand for arbitration . . . until the time of . . . award." Minn. Stat. § 549.09, subd. 1(b) (emphasis added). The word "shall" indicates that the action is mandatory, not discretionary. *See* Minn. Stat. § 645.44, subd. 16 ("'Shall' is mandatory."); *see also Poehler v. Cincinnati Ins. Co.*, 899 N.W.2d 135, 141 (Minn. 2017) (stating that "section

549.09 provides preaward interest on all awards of *compensatory damages* that are not excluded by the statute"). And preaward interest "is limited only by contract or by the exceptions listed in section 549.09, subd. 1(b) and is compensatory in nature, not punitive."[2] *Fette v. Peterson*, 406 N.W.2d 594, 596 (Minn. App. 1987), *rev. denied* (Minn. June 30, 1987).

Here, there are no contract provisions limiting preaward interest, nor does this case satisfy an exception listed in the statute. Preaward interest was, therefore, mandatory. *See* Minn. Stat. § 549.09, subd. 1(b). Moreover, we have explained that prejudgment interest is a collateral matter "not intertwined with the merits of a case." *Fette*, 406 N.W.2d at 597. Because prejudgment interest is collateral in nature, respondents were not required to move to modify the arbitration award. Instead, *Fette* indicates that respondents were free to request preaward interest in their motion to confirm the arbitration award. *See id.* (explaining that prejudgment interest is "not intertwined with the merits of a case").

Appellants ignore *Fette*, and instead cite *National Indemnity Co. v. Farm Bureau Mutual Insurance Co.*, 348 N.W.2d 748 (Minn. 1984), in support of their position that the district court did not have authority to award preaward interest absent a motion to modify the arbitration award. Indeed, the supreme court in *National Indemnity* stated that

[2] The statutory exceptions prohibiting an award of preaward interest include the following: (1) "judgments, awards, or benefits in workers' compensation cases, but not including third-party actions"; (2) judgments or awards for future damages"; (3) punitive damages, fines, or other damages that are noncompensatory in nature"; (4) judgments or awards not in excess of the amount specified in section 491A.01"; and (5) "that portion of any verdict, award, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court or arbitrator." Minn. Stat. § 549.09, subd. 1(b).

Minnesota's arbitration statutes do "not permit the court to award prejudgment interest where the application for arbitration included interest as an item of damage and none was awarded by the arbitrators. The proper procedure would have been to seek a modification of the award" under the applicable statute. 348 N.W.2d at 752.

The language cited by appellants from *National Indemnity* is not applicable here. Although respondents requested preaward interest in their demand for arbitration, the parties' arbitration agreement specifically limited the arbitration panel's "authority to make any further determination[s], except as reasonable and appropriate to have orderly procedures and determine the New Purchase Price." Thus, the arbitration panel concluded that it had "no authority to consider the issue of prejudgment interest." This is different from *National Indemnity* because, in that case, there was no indication that the arbitration panel did not have authority to award prejudgment interest. Rather, the panel simply declined to award it.

Moreover, since *National Indemnity* was decided, section 549.09, subdivision 1(b) was enacted, which provides that preaward interest is mandatory. Minn. Stat. § 549.09, subd. 1(b). In light of the statutory changes, *National Indemnity* no longer controls the issue of preaward interest because section 549.09, subdivision 1(b) requires inclusion of preaward interest on arbitration awards. Therefore, we conclude that the district court had the authority under section 549.09, subdivision 1(b), to award preaward interest.

B. Damages

Next, appellants argue that preaward interest was erroneously awarded because respondents did not suffer any damages for which interest could be awarded. Indeed, the

supreme court has stated that Minn. Stat. § 549.09, subd. 1(b), "unambiguously provides for preaward interest on *all awards of pecuniary damages* that are not specifically excluded by the statute." *Poehler*, 899 N.W.2d at 141 (emphasis added). And the supreme court has "described prejudgment interest generally as an element of damages awarded to provide full compensation by converting time-of-demand . . . damages into time-of-verdict damages." *Else v. Auto-Owners Ins. Co.*, 980 N.W.2d 319, 325 (Minn. 2022) (quotation omitted). But this court has recognized that interest is inappropriate when there is no underlying judgment or award entered that could serve as a basis for a prejudgment-interest award. *Warrick v. Graffiti, Inc.*, 550 N.W.2d 303, 309-10 (Minn. App. 1996), *rev. denied* (Minn. Sept. 20, 1996).

In *Thomas v. Thomas*, this court concluded that interest is not appropriate when a party is not entitled to receive money until one of several contingencies occurs. 383 N.W.2d 727, 729 (Minn. App. 1986). Relying on *Thomas*, appellants argue that, in this case, there was "no money or award to support a claim for prejudgment interest" because the arbitration panel "only declared the New Purchase Price." In other words, appellants contend that respondents "did not suffer any damages because there was an unmet contingency precluding respondents from being paid by appellants"—that unmet contingency being a declaration of the New Purchase Price.

Thomas is factually distinguishable from this case. In *Thomas*, this court concluded that, although husband had a lien against the marital homestead, he was not entitled to prejudgment interest because husband was not entitled to any money from the lien until several unspecified contingencies were fulfilled. 383 N.W.2d at 729. Conversely, there is

nothing in the record here indicating that respondents were not entitled to payment for their interest in the corporate entities. Rather, the record reflects that respondents previously transferred their interest in the corporate entities to appellants. Although appellants claim that their payment to respondents for the corporate entities was contingent upon knowing the amount they owed respondents, the fact that the amount owed was disputed does not change the fact that respondents were entitled to compensation for their transferred interest in the corporate entitles. And because respondents were entitled to compensation for their transferred interest in the corporate entities, this compensation constitutes pecuniary damages within the purview of section 549.09, subdivision 1(b).

Moreover, appellants' argument simply echoes their argument made above—that a judgment was inappropriate because the arbitration award was a declaration of the purchase price and not a monetary award. But as we addressed above, the arbitration panel determined that respondents were "entitled" to the amount awarded, and the district court's entry of judgment on the arbitration award is consistent with section 572B.25(a). And the arbitration panel's finding that respondents were "entitled" to the amount of the New Purchase Price indicates an award of pecuniary damages. *See Black's Law Dictionary* 488 (11th ed. 2019) (defining "damages" as "[m]oney claimed by, or ordered to be paid to, a person as compensation for loss or injury").

Further, the "ordinary meaning of 'damages' is not limited to compensation for wrongdoing only; rather it extends to compensation for any injury suffered, whether wrongful or not." *Poehler*, 899 N.W.2d at 141. Here, it was undisputed that appellants owed respondents something—it was simply a matter of how much was owed. Under

similar circumstances, the supreme court determined that the amount owed constituted damages and, therefore, the insured was not precluded from recovering preaward interest. *See id.* at 145. Accordingly, we conclude that respondents' claim for preaward interest falls within the purview of section 549.09.

C. Prevailing party

Appellants further argue that an award of preaward interest was inappropriate because respondents were not the prevailing party. The district court has "discretion to determine which party, if any, qualifies as a prevailing party." *Benigni v. County of St. Louis*, 585 N.W.2d 51, 54-55 (Minn. 1998). We will reverse the district court's prevailing-party determination only if the district court "abused its discretion, exercised its discretion in an arbitrary or capricious manner, or based its ruling on an erroneous view of the law." *Posey v. Fossen*, 707 N.W.2d 712, 714 (Minn. App. 2006) (quotation omitted). The party challenging the district court's decision has the burden to show that "no reasonable person would agree" with the decision. *Id.* (quotation omitted).

The prejudgment-interest statute provides that "[e]xcept as otherwise provided by contract or allowed by law," the "prevailing party" is entitled to prejudgment interest. Minn. Stat. § 549.09, subd. 1(b). When identifying the prevailing party, "the general result should be considered, and inquiry made as to who has, in the view of the law, succeeded in the action." *Borchert v. Maloney*, 581 N.W.2d 838, 840 (Minn. 1998) (quotation omitted). "The prevailing party in any action is one in whose favor the decision or verdict is rendered and judgment entered." *Id.* Minnesota's approach in making this determination is a "*pragmatic*" one that "*depends on a careful weighing of the relative success of the*

parties to a lawsuit, a process that invests a certain amount of discretion in the district court." *Posey*, 707 N.W.2d at 715 (emphasis added).

In cases where only one party receives a favorable verdict or judgment, the prevailing party is typically the party that received the favorable verdict or judgment. *Borchert*, 581 N.W.2d at 840. But in cases where each party succeeds in some respect, the district court must carefully weigh the relative successes of the parties. *Posey*, 707 N.W.2d at 714-15. In doing so, the district court has discretion to find that one party is the prevailing party, both parties are the prevailing party, or that neither party prevailed. *See e.g.*, *Benigni*, 585 N.W.2d at 54-55 (no prevailing party); *Staffing Specifix, Inc. v. TempWorks Mgmt. Servs., Inc.*, 896 N.W.2d 115, 128 (Minn. App. 2017), *aff'd*, 913 N.W.2d 687 (Minn. 2018) (finding multiple prevailing parties); *Haugland v. Canton*, 84 N.W.2d 274, 280 (Minn. 1957) (finding one prevailing party).

Appellants argue that they "were the prevailing party because both parties agreed [that r]espondents were entitled to a New Purchase Price based on the value of [r]espondents' interest, and . . . [r]espondents only received a New Purchase Price that was less than half of what they argued it should be." We disagree. By awarding preaward interest to respondents, the district court necessarily concluded that respondents were the prevailing party. Appellants cannot show that "no reasonable person would agree" with this decision. *See Posey*, 707 N.W.2d at 714 (quotation omitted). The record reflects that the parties disagreed about the value of the corporate entities; the parties decided to let an arbitration panel decide the issue; and the arbitration panel determined that the New Purchase Price of the corporate entities was somewhere between the valuations of the

parties' experts. Although the parties, and appellants in particular, go to great lengths discussing the various financial circumstances that purportedly support their position that they are the prevailing party, the record indicates that the arbitration award was about $200,000 more than appellants' last settlement offer. This amount is substantial. While it may be true that respondents originally demanded several hundred thousand dollars more than they were ultimately awarded, our review of the district court's determination of the prevailing party is limited to an abuse of discretion. Applying this standard, we discern no abuse of discretion in the district court's prevailing-party determination.

D. Calculation of prejudgment interest

Finally, appellants argue, in the alternative, that the district court erred in including the agreed-upon offsets in its calculation of preaward interest. We agree. Prejudgment interest award serves "(1) to compensate prevailing parties for the true cost of money damages incurred, and (2) to promote settlements when liability and damage amounts are fairly certain and deter attempts to benefit unfairly from delays inherent in litigation." *Blehr*, 955 N.W.2d at 618 (quotation omitted). "Such an award compensates the prevailing party for the loss of use of money." *Casey*, 464 N.W.2d at 739.

In *Elm Creek*, an insured argued that offsetting the total amount of preaward interest by prior payments the insurer made was erroneous. 971 N.W.2d at 743. This court rejected this argument, concluding:

> [Insured] was deprived of the full value of the . . . appraisal award until it was paid, but it was not deprived of all money damages until that time. [Insurer] paid [insured] $75,530.08 on October 18, 2017. [Insured] was entitled to accept this payment without sacrificing its rights to

> replacement cost benefits under the policy. Accordingly, [insured] was not deprived of the use of this $75,530.08 during the time preaward interest was accruing, and [insurer] is entitled to an offset in that amount.

Id.

Here, respondents were deprived of the full value of their interest in the corporate entities as established by the New Purchase Price until it was paid in full. But according to the parties' "Settlement Term Sheet," respondents also agreed to pay appellants a $750,000 settlement related to ALO. The Settlement Term Sheet indicates that this amount was to be deducted from the amount of the New Purchase Price. Because this amount was to be deducted from the New Purchase Price for the corporate entities, respondents were not deprived of the use of money constituting the full amount of the New Purchase Price. We, therefore, reverse and remand for a recalculation of preaward interest to reflect the $750,000 offset related to ALO.

Affirmed in part, reversed in part, and remanded.