

N.D.A.G. Letter to Hope (Jan. 21, 1986)

January 21, 1986

Mr. James Hope
Assistant Stark County State's Attorney
P. O. Box 130
Dickinson, North Dakota 58601

Dear Mr. Hope:

Thank you for your letter of November 15, 1985, concerning interest on judgments.

N.D.C.C. §28-20-34 states:

28-20-34. INTEREST RATE ON JUDGMENTS. Interest shall be payable on judgments recovered in the courts of this state at the same rate as is provided in the original instrument upon which the action resulting in the judgment is based, which rate shall not exceed the maximum rate provided in section 47-14-09. If such original instrument contains no provision as to an interest rate, or if the action resulting in the judgment was not based upon an instrument, interest shall be payable at the rate of twelve percent per annum and shall not be compounded in any manner or form. Interest on all judgments recovered in the courts of this state before July 1, 1981, shall remain at the rate per annum which was legally prescribed at the time the judgments were entered, and such interest must not be compounded in any manner or form.

N.D.C.C. §1-01-36 states:

1-01-36. COMPOUND INTEREST--DEFINITION.--The words "compound interest" shall mean interest added to the principal as the former becomes due and thereafter made to bear interest.

In my opinion, the phrase "must not be compounded in any manner or form" means that when calculating interest on a judgment you cannot add the interest from one day to the principal and calculate the next day's interest on that increased amount. The one-time addition of total interest to the principal debt which happens on the date of judgment when judgment is entered for the full amount of principal plus interest is not compounding under that statute.

The original underlying debt on which the judgment was obtained no longer exists upon the merger of the cause of action into the judgment. Steelman v. Planters Production Credit Assoc., 285 Ark. 217, 685 S.W.2d 800 (1985); 46 Am. Jur.2d Judgments §382, et

seq. The judgment becomes a new debt for the full amount, on which simple interest is calculated.

Sincerely,

Nicholas J. Spaeth

pg