

AFTER APPELLATE REVERSAL OF A NEW TRIAL ORDER, PREJUDGMENT INTEREST EXTENDS TO THE DATE OF THE JUDGEMENT AFTER APPEAL; IT DOES NOT END WITH ENTRY OF THE ORIGINAL JUDGEMENT

May 12, 2012 | Law Alerts

Metzler v. BCI Coca-Cola Bottling Co. of L.A. Inc.,
Ct. Appeals, Division Two, May 11, 2012

Authored by the [JSH Appellate Team](#)

Plaintiff made a Rule 68 offer of judgment that Defendant rejected. The jury later awarded Plaintiff damages in excess of her offer of judgment. The trial court awarded prejudgment interest from the date of Plaintiff's offer to the entry of judgment. Defendant moved for a new trial. The trial court granted a new trial on liability only, and vacated the judgment for Plaintiff. Defendant appealed, and the court reversed the new trial order, ordering the judgment reinstated. When Plaintiff moved for judgment on the mandate, the trial court entered a judgment, but terminated the Rule 68 prejudgment interest as of the entry of the initial judgment.

The court of appeals reversed. A vacated judgment is not a "more favorable judgment" than the offer. Nor is a vacated judgment a "judgment" for prejudgment interest purposes. Therefore a vacated judgment is not a "judgment" for purposes of Rule 68(g). Therefore, prejudgment interest extended to the judgment entered after appeal. This interpretation is consistent with the settlement-promoting purpose of Rule 68. Protracted litigation, including the possibility of a new trial or reversal on appeal, is an inherent risk a party takes when rejecting a Rule 68 offer of judgment. The possibility of sanctions throughout extended litigation only increases the incentive to settle early.