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OCM First Circuit Win Clarifies Federal Court Pre-Judgment Interest Rate in Diversity Jurisdiction Cases

By [David B. Mack](#), Partner

On December 9, 2010, the United States Court of Appeals for the First Circuit affirmed a [jury verdict](#) in favor of OCM client, Analysis Group, Inc., on a breach of contract claim. The defendant challenged, among other things, the trial court's award of pre-judgment interest from the date of breach or demand, rather than the date of filing of the complaint.



The Massachusetts pre-judgment interest statute, G.L. c. 231, § 6C (applicable in cases in federal court under diversity jurisdiction), awards interest on contract claims at twelve percent per annum from the date of breach or demand, "if established," and otherwise from the date of filing of the complaint. Prior to this case, the First Circuit had held that "if established" meant a finding of fact at trial as to the date of breach or demand. Evidence at trial supporting such a finding does not suffice. In a jury case, this appeared to require the plaintiff to submit a special question to the jury. In this case, however, the defendant in its answer admitted Analysis Group's allegation that it made demand on a certain date. The First Circuit properly held that this admission obviated the need for a special finding by the jury. Accordingly, in diversity jurisdiction breach of contract cases, a successful plaintiff needs a stipulation, a pre-trial admission or a specific finding at trial in order to recover 12% interest for the additional period between the date of breach or demand and the date of filing of the complaint.

[Read the First Circuit Decision >>](#)

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