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# A federal district court in Missouri rejects an FDCPA claim based on the legal theory that post-judgment interest in Missouri nontort cases must be specifically awarded in the judgment to be collectable

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We are pleased to report a victory in the Eastern District of Missouri in an FDCPA case concerning the collection of statutory post-judgment interest on an unpaid Missouri state court judgment. The order may be read [here](#).

The case arose out of a Missouri state court collection lawsuit, where default judgment was entered against the Plaintiff. Subsequently, our clients sought to collect the default judgment and also sought to collect statutory post-judgment interest on the judgment. Thereafter, Plaintiff filed a lawsuit alleging that our clients violated the FDCPA by seeking to collect post-judgment interest because it was not awarded in the judgment order to be collected. Our clients moved to dismiss Plaintiff's legal theory—that under Missouri law post-judgment interest must be awarded in the judgment in order to be collected—as contrary to law. The Court granted our clients' motion to dismiss, rejecting Plaintiff's legal theory.

In reaching its determination, the Court reviewed the applicable statute, Mo. Rev. Stat. § 408.040, and Missouri case law that pertained to nontort cases. The Court recognized that Section 408.040 "specifically addresses nontort and tort cases separately," and that "[o]nly with respect to tort cases does the statute require that '[t]he judgment shall state the applicable interest rate.'" Then, the Court recognized the familiar principle of statutory construction that "a negative inference may be drawn from the exclusion of language from one statutory provision that is included in other provisions of the same statute." The Court also reviewed cases interpreting Section 408.040, and found that the cases that the Plaintiff relied upon concerned the omission of statutory post-judgment interest in tort actions. The Court concluded that those cases were not controlling in the case at bar because the case at bar arose out of a contract case. In sum, the Court held that post-judgment interest is collectable in nontort cases in Missouri even if the judgment does not specifically award such interest, and that Plaintiff's legal theories for violation of the FDCPA based on the silence of the underlying judgment fail.

This post was drafted by [Josh Dickinson](#) and [Shilee Mullin](#), attorneys in the Spencer Fane Omaha, NE office. For more information, visit [spencerfane.com](http://spencerfane.com).

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