UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

SUHAIL NAJIM ABDULLAH AL SHIMARI *et al*., Plaintiffs,	)	
v.	)	Case No. 1:08-cv-827 (LMB/JFA)
CACI PREMIER TECHNOLOGY, INC. Defendant.	)	

PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO AMEND THE JUDGMENT TO INCLUDE PREJUDGMENT AND POST-JUDGMENT INTEREST

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

Plaintiffs Salah Hasan Nsaif Al-Ejaili, Asa'ad Hamza Al-Zuba'e, and Suhail Najim Abdullah Al Shimari respectfully move, pursuant to Federal Rule of Civil Procedure 59(e), to amend the judgment to include prejudgment interest as to their compensatory damages awards and post-judgment interest as to the entirety of their damages awards (including prejudgment interest).

Plaintiffs commenced this action more than 16 years ago, seeking redress for the abuse they suffered at Abu Ghraib prison. Two weeks ago, a jury found CACI Premier Technology, Inc. ("CACI") liable for participating in the conspiracy to commit torture or cruel, inhuman, or degrading treatment that caused Plaintiffs' injuries, and awarded them each $3 million in compensatory damages and $11 million in punitive damages.

Plaintiffs are entitled to prejudgment interest on the compensatory damages. Such interest, while awarded at the discretion of the District Court, is presumptively available for victims of violations of federal law, for both economic and non-economic injuries. Moreover, the "considerations of fairness" that drive courts' analysis to award prejudgment interest favor that award here, especially in light of the many years that have elapsed since Plaintiffs' injuries and the filing of this action. This litigation was repeatedly and unnecessarily prolonged by CACI through a campaign of delay—including a multi-year delay caused, on the eve of trial, by a frivolous and obviously foreclosed second attempted interlocutory appeal—depriving Plaintiffs for years of the damages to which a jury ultimately found they were entitled and allowing CACI to receive the benefit of that money and its increasing value throughout the litigation. Prejudgment interest here should be awarded at Virginia's 6 percent (non-compounded) rate, from the date of each of Plaintiff's injuries.

Plaintiffs are also entitled to post-judgment interest, which is mandatory and assessed on the entirety of Plaintiffs' damages award, including punitive damages and any prejudgment interest.

BACKGROUND

I. PLAINTIFFS' INJURIES AND THEIR INITIATION OF THIS LAWSUIT

Plaintiffs Al-Ejaili, Al-Zuba'e, and Al Shimari each were detained at Abu Ghraib prison beginning in late 2003 and suffered abuse amounting to torture or cruel, inhuman, or degrading treatment. Mr. Al-Ejaili's detention extended from approximately November 9, 2003 until December 20 or December 21, 2003, *see* Oct. 30, 2024 Tr. 194:11-13, during which time he suffered near-continual forced nudity, was shackled in stress positions for extended periods, was beaten, deprived of food and water, and experienced constant terror, *see id.* at 199:5-220:15. Mr. Al-Zuba'e, meanwhile, was detained at Abu Ghraib prison from at least November 5, 2003 to approximately mid-2004. *See* ECF No. 1650-36 (PTX 226), ¶¶ 13-14; ECF No. 1660-4 (DX 2) at 10. There, he was sexually assaulted, forced to masturbate and remain naked for extended periods of time, threatened with rape (both of himself and his family), placed in stress positions, beaten, put in a "hole" overnight, deprived of access to a toilet, and threatened and bitten by a military working dog. *See generally* Oct. 31, 2024 AM Tr. 7:14-36:3. Finally, Mr. Al Shimari was held at the prison from approximately December 1, 2003 to October 11, 2004. *See* ECF No. 1650-36 (PTX 226), ¶ 6. While at Abu Ghraib, he was, *inter alia*, sexually assaulted and forced to masturbate, threatened with rape, told that he would be forced to watch his family be raped, forcibly shaved, forced to remain nude for extended periods of time, including in front of female soldiers, handcuffed in stress positions, beaten, choked, threatened with a gun, and threatened with unmuzzled military working dogs. *See generally* Nov. 4, 2024 Tr. 12:15-26:16.

Plaintiffs initiated this lawsuit against CACI on June 30, 2008, more than 16 years ago. *See* ECF No. 2 (Initial Compl.). Plaintiffs sought compensatory and punitive damages, as well as other fees and costs permitted by law, which include prejudgment interest. *See* ECF No. 254 (Third Amended Complaint) at 53; ECF No. 1357 (under seal). Years ago, at the Court's request, Plaintiffs provided the Court and CACI with "the specific amount of damages sought by each Plaintiff," ECF No. 1353, namely, compensatory damages totaling "$2 million to $3 million" per Plaintiff, based on amounts awarded in similar cases, often many years earlier; "punitive damages … of between $23.5 million and $64 million," based on the value of CACI's delivery orders for the relevant work (more than $30 million) and other factors, and "prejudgment interest on the compensatory damages" to "account for the time value of money" and CACI's efforts to delay adjudication of the case, discussed below. *See* ECF No. 1357 (under seal) at 1-4; *see also id*. at Appendix A (list of awards and settlements in similar cases that resolved between 1984 and 2019).

II. CACI'S DELAY OF RESOLUTION OF THIS LITIGATION

It cannot be credibly disputed that a significant part of CACI's litigation strategy in this case was to delay the case's resolution. For example, CACI filed no fewer than fourteen motions to dismiss, *see* ECF Nos. 34, 180, 312, 354, 363, 516, 626, 811, 1040, 1057, 1149, 1331, 1367, 1487, many of which relitigated issues that this Court had already resolved. CACI also filed multiple improper interlocutory appeals, *see, e.g*., ECF No. 96 (notice of appeal from order denying motion to dismiss); *Al Shimari v. CACI Int'l, Inc*., 679 F.3d 205 (4th Cir. 2012) (*en banc*) (dismissing appeal because it was not subject to interlocutory review under collateral order doctrine); ECF No. 1253 (notice of appeal from another denial of motion to dismiss); *Al Shimari et al. v. CACI Premier Technology, Inc*., No. 19-1328 (4th Cir. Aug. 23, 2019), ECF No. 75 (again dismissing CACI's interlocutory appeal because it was not subject to interlocutory review); *In re*

CACI Premier Technology, Inc., No. 23-1932 (4th Cir. Sept. 7, 2023), ECF No. 2-1 (petition for writ of mandamus regarding denial of CACI's twelfth and thirteenth motions to dismiss); *id*., ECF No. 17-2 (summarily denying mandamus petition).

A series of intertwined motions and appellate filings that delayed the case by approximately four years is illustrative. Three weeks before the start of the initially scheduled April 2019 trial in this action, CACI appealed from this Court's denial of its motion to dismiss on grounds of derivative sovereign immunity. ECF No. 1253.[1] CACI prosecuted this frivolous appeal even though CACI's prior attempt to appeal a nearly identical interlocutory legal question was rejected by an 11-3 *en banc* vote of the Fourth Circuit in this very same case. Thus, as Fourth Circuit explained in its two-page, unpublished decision disposing of the appeal, the futility of this second interlocutory appeal was obvious, "follow[ing] from the reasoning of a prior *en banc* decision in which [the Fourth Circuit] dismissed CACI's interlocutory appeal from the district court's denial of similar defenses." *Al Shimari et al. v. CACI Premier Technology, Inc*., No. 19-1328 (4th Cir.), ECF No. 75 at 3. Undeterred by this proclamation of futility, CACI nevertheless sought further delay by moving in vain for rehearing and to stay the mandate in both the Fourth Circuit and the Supreme Court. *Id.*, ECF No. 87; *CACI Premier Tech., Inc. v. Al Shimari*, No. 19A430 (U.S. filed Oct. 23, 2019). While these submissions lacked merit, CACI achieved its goal of delaying trial in this matter, obtaining a stay in this Court as CACI petitioned the Supreme Court for a writ of certiorari, ECF No. 1320, which was denied approximately 19 months later, *see* ECF No. 1327. One week after this Court lifted the stay, CACI filed yet another motion to dismiss,

[1] CACI used this putative appeal (itself impermissible) to improperly attempt to bootstrap the appeal of a number of this Court's other interlocutory rulings, including those regarding extraterritoriality, the political question doctrine, state secrets, and preemption. *See Al Shimari et al. v. CACI Premier Technology, Inc*., No. 19-1328 (4th Cir.), ECF No. 19 (CACI's sealed appellate brief).

ECF No. 1331, and while that motion was pending, CACI filed still another, ECF No. 1367. In denying both of these motions, this Court emphasized that they "repeat many of the same arguments [CACI] has previously made and which have been rejected by the Court." ECF No. 1396 at 9. Nevertheless, CACI then petitioned the Fourth Circuit for a writ of mandamus, *see In re CACI Premier Technology, Inc*., No. 23-1932, ECF No. 2-1, which the Fourth Circuit summarily denied, *id.*, ECF No. 17-2.

III. THE TRIALS AND VERDICT IN THIS ACTION

The case finally proceeded to trial in April 2024, and resulted in a mistrial after jurors deliberated for more than a week. The Plaintiffs pursued a retrial, which commenced on October 30, 2024. At both trials, CACI tried to cast Plaintiffs as liars who had not actually been abused.[2] Indeed, at the re-trial, CACI went further, arguing to the jury—wrongly and without any basis in evidence whatsoever—that Plaintiffs were merely "props" and a "vessel for lawyers." Nov. 7, 2024 Tr. at 78:5-7.

The jury was not swayed by CACI's offensive strategy to demean Plaintiffs. On November 12, 2024, the jury rendered a verdict that awarded to each Plaintiff $3 million in compensatory damages and $11 million in punitive damages. *See* ECF No. 1812. Those amounts represented: (1) the maximum amount of compensatory damages that Plaintiffs requested, based on Plaintiffs' submission to the Court years earlier about the maximum that they would seek in such damages, *see* ECF No. 1357 (under seal) at 2-3, and (2) punitive damages requested by

[2] Throughout the case's long history, CACI went even further, attacking Plaintiffs as "terrorists" who wanted to "kill Americans" at every opportunity. *See, e.g.*, ECF No. 1226 at 2-5 (cataloguing such attacks). CACI presumably would have done the same at trial had the Court not correctly ruled, multiple times, that such improper and inappropriate attacks by CACI could not be lodged at trial.

Plaintiffs in the approximate value (less reimbursable costs and expenses) of CACI's delivery orders for interrogation and related intelligence services in Iraq.

The Court entered judgment the same day. The judgment was "in the amount of $3,000,000 in compensatory damages and $11,000,000 in punitive damages as to each plaintiff." ECF No. 1814. The judgment did not mention prejudgment or post-judgment interest.

LEGAL STANDARD

Requests to amend the judgment to account for prejudgment and/or post-judgment interest are made pursuant to Fed. R. Civ. P. 59(e). The standard for motions under Rule 59(e) typically requires "an intervening change in controlling law"; "new evidence not available"; or "clear error of law tor to prevent manifest injustice." *Zinkand v. Brown*, 478 F.3d 634, 637 (4th Cir. 2007) (citations omitted). In the unique context of motions to amend the judgment to include pre- or post-judgment interest, however, courts within the Fourth Circuit have dispensed with these requirements. *See, e.g.*, *CNX Gas Co. LLC v. HG Energy II Appalachia, LLC*, 2021 WL 7448728, at *1 (N.D. W. Va. Nov. 24, 2021); *In re Partitions Plus of Wilmington, Inc.*, 2008 WL 1924035, at *1 (Bankr. E.D.N.C. Apr. 30, 2008) (explaining that "where [judgment] did not address the issue of prejudgment interest, the [movant's] motion sets forth a cognizable basis for relief under Rule 59(e)").

ARGUMENT

The judgment should be amended to account for prejudgment interest, which is presumptively available for violations of federal law. As explained below, Plaintiffs respectfully submit that the award of prejudgment interest is appropriate in this case, and request that the Court apply Virginia's statutory 6 percent interest rate, accruing from the start of Plaintiffs' injuries (without compounding), to their awards of compensatory damages. Separately, the judgment

should also be amended to reflect the award of post-judgment interest, which is mandatory and encompasses the entirety of the damages awards to Plaintiffs.

A. Plaintiffs Are Entitled to Prejudgment Interest on Their Compensatory Damages Awards

"Federal law controls the issuance of prejudgment interest awarded on federal claims." *Fox v. Fox*, 167 F.3d 880, 884 (4th Cir. 1999) (citing *City of Milwaukee v. Cement Div., Nat'l Gypsum Co*., 515 U.S. 189, 194 (1995)). Where, as here, the federal statute in question is silent as to prejudgment interest, "the award of pre-judgment interest is discretionary with the trial court." *Quesinberry v. Life Ins. Co. of N. Am.*, 987 F.2d 1017, 1030-31 (4th Cir. 1993) (*en banc*). However, "[t]he presumption in favor of prejudgment interest" is "widely recognized." *Feldman's Med. Ctr. Pharmacy, Inc. v. CareFirst, Inc*., 823 F. Supp. 2d 307, 324 (D. Md. 2011); *see Maksymchuk v. Frank*, 987 F.2d 1072, 1077 (4th Cir. 1993) ("[P]rejudgment interest should be presumptively available to victims of federal law violations." (quoting *McKnight v. General Motors Corp*., 973 F.2d 1366, 1372-73 (7th Cir. 1992)); *Am. Tel. & Tel. Co. v. Jiffy Lube Int'l, Inc*., 813 F. Supp. 1164, 1170 (D. Md. 1993) ("Prejudgment interest … is an ordinary part of any award under federal law." (citing *Matter of Oil Spill by the Amoco Cadiz*, 954 F.2d 1279, 1331 (7th Cir. 1992)).

Prejudgment interest "is not recovered according to a rigid theory of compensation for money withheld, but is given in response to considerations of fairness." *Bd. of Comm'rs of Jackson Cnty. v. United States*, 308 U.S. 343, 352 (1939). Thus, courts should examine such "considerations of fairness," as well as "the relative equities of the award" in "exercising [their] discretion to award prejudgment interest." *Feldman's Med. Ctr. Pharmacy, Inc*, 823 F. Supp. 2d at 324; *Wickham Contracting Co. v. Loc. Union No. 3, Int'l Bhd. of Elec. Workers, AFL-CIO*, 955 F.2d 831, 834 (2d Cir. 1992) (same); *In re ClassicStar Mare Lease Litig*., 727 F.3d 473, 495 (6th

Cir. 2013) (courts should exercise discretion to award prejudgment interest "in accordance with general equitable principles"); *Frymire v. Ampex Corp*., 61 F.3d 757, 774 (10th Cir. 1995) (courts must consider whether prejudgment interest award "reflect[s] 'fundamental considerations of fairness'") (internal quotation marks and citations omitted). Here, an award of prejudgment interest is appropriate.

As an initial matter, courts regularly award prejudgment interest on claims brought under the Alien Tort Statute ("ATS") and similar statutes governing serious abuses committed abroad that result in significant non-economic harm. *See, e.g*., *Mwani v. Al Qaeda*, 2014 WL 4749182, at *13 (D.D.C. Sept. 25, 2014) (in ATS case, awarding plaintiffs prejudgment interest on damages for pain and suffering resulting from bombing of U.S. Embassy in Nairobi, Kenya); *Mwani v. Al Qaeda*, 600 F. Supp. 3d 36, 58-59 (D.D.C. 2022) (different Judge awarding same to additional plaintiffs); *Miller v. Cartel*, 2022 WL 2286952, at *73 (D.N.D. June 24, 2022) (in case brought pursuant to Anti-Terrorism Act, awarding plaintiffs prejudgment interest on both economic and non-economic damages); *Pugh v. Socialist People's Libyan Arab Jamahiriya*, 530 F. Supp. 2d 216, 263-65 (D.D.C. 2008) (awarding plaintiffs prejudgment interest on damages sustained as a result of bombing, including "severe pain and suffering and mental anguish"); *see also Rux v. Republic of Sudan*, No. 2:04 Civ. 428 (E.D. Va. Nov. 15, 2007), ECF No. 98 (judgment awarding plaintiffs prejudgment interest in case brought pursuant to terrorism exception of Foreign Sovereign Immunities Act).

Second and similarly, courts nationwide regularly emphasize that "non-economic damages awarded for [Plaintiffs'] pain and suffering are just as much an actual loss (for which prejudgment interest is in order) as purely economic damages." *Barnard v. Theobald*, 721 F.3d 1069, 1078 (9th Cir. 2013); *see also id*. ("Thus, to the extent the district court denied prejudgment

interest because it thought [prejudgment interest] is unavailable for non-economic damages, the district court abused its discretion." (internal quotation marks and citations omitted)); *Thomas v. Texas Dep't of Crim. Just.*, 297 F.3d 361, 372 (5th Cir. 2002) ("Prejudgment interest should apply to all past injuries, including past emotional injuries ... Refusing to award prejudgment interest ignores the time value of money and fails to make the plaintiff whole."); *Borges v. Our Lady of the Sea Corp.*, 935 F.2d 436, 444 (1st Cir. 1991) ("It has been held that prejudgment interest may be awarded on damages for past intangible loss, such as pain and suffering."); *Hillier v. S. Towing Co.*, 740 F.2d 583, 586 (7th Cir. 1984) ("The district court erred in its determination that it could not award prejudgment interest for pain and suffering and for past loss of society. Consequently, we reverse and remand that portion of the case denying the plaintiff prejudgment interest for pain and suffering or for past loss of society.").[3] While the gravamen of Plaintiffs' injuries in this case is non-economic, those harms plainly are just as significant—and just as much constitute "actual loss[es]," *Barnard*, 721 F.3d at 1078—as harm that is purely pecuniary.

Third, "considerations of fairness" and the "relative equities," *Feldman's Med. Ctr. Pharmacy, Inc*, 823 F. Supp. 2d at 324, favor the award of prejudgment interest here. As described above, CACI strategically and intentionally delayed resolution of this case for many years through, *inter alia*, seriatim motions and procedurally improper and baseless appeals. *See supra* 3-5. Prejudgment interest is thus "particularly appropriate in this case because of the substantial delay in judgment for these [P]laintiffs caused by [CACI's] persistent delay tactics over the course of this litigation." *Pugh*, 530 F. Supp. 2d at 265; *see also Dammarell v. Islamic Republic of Iran*,

[3] *See also Sophia v. Buchanan*, 2018 WL 3062586, at *4 (D.S.C. June 21, 2018) (awarding prejudgment interest on damages for, *inter alia*, "pain and suffering"; "mental anguish"; "scarring and disfigurement"; and "loss of enjoyment of life"); *Bates v. Merritt Seafood, Inc.*, 663 F. Supp. 915, 935-36 (D.S.C. 1987) (similar).

2006 WL 2583043, at *1 n.2 (D.D.C. Sept. 7, 2006) (explaining that "the Court took account of the fact that the [damages] awards are intended to compensate for injuries sustained over the course of more than two decades" so that the value "attached to such injuries should reflect interest and compounding over time," and emphasizing that "any assessment of the real value" of "compensation for physical pain and suffering and mental anguish" must "take into consideration that time factor").

Likewise, the equities also make prejudgment interest appropriate to ensure that CACI does not "profit from the use of the money in the time between plaintiffs' injuries and the damages award." *Kar v. Islamic Republic of Iran*, 2022 WL 4598671, at *21 (D.D.C. Sept. 30, 2022); *Pugh*, 530 F. Supp. 2d at 264 ("[P]rejudgment interest also is designed to avoid the unsupportable circumstance of [the defendant] *profiting* from" its abuses (emphasis in original)); *Miller*, 2022 WL 2286952, at *73 (same). Indeed, that is true "whether an action has been deliberately prolonged or not," because, even if delay was unintentional, "the defendants who are ultimately directed to pay have had the use of the money declared to be due." *Gardner v. Nat'l Bulk Carriers, Inc.*, 221 F. Supp. 243, 247 (E.D. Va. 1963) (quoting *Moore-McCormack Lines, Inc. v. Richardson*, 295 F.2d 583, 594 (2d Cir. 1961)), *aff'd*, 333 F.2d 676 (4th Cir. 1964); *see also* Rep. & Rec. of Special Master, *Kansas v. Colorado*, No. 105, ORIGINAL, 1997 WL 33796878, at *48 (U.S. Sept. 9, 1997) (noting that "courts have determined that prejudgment interest may be necessary to avoid unjust enrichment of a defendant who has had the use of money or things which rightly belong to the plaintiff" and that "if prejudgment interest is not awarded, the defendant may have an incentive to delay payment").

The Fourth Circuit's recent decision in *Gilliam v. Allen*, 62 F.4th 829 (4th Cir. 2023), reversing an award of $36 million in prejudgment interest to Section 1983 plaintiffs, does

not compel a different result. As an initial matter, *Gilliam* did not involve a claim for *jus cogens* violations under the ATS. That aside, the *Gilliam* decision was driven by particularities of the facts and jury instructions of that case. For example, unlike Plaintiffs in this case, the plaintiffs in *Gilliam* never previously signaled their intention to seek prejudgment interest prior to the entry of judgment. Additionally, the Fourth Circuit had reason to be particularly doubtful that the District Court's imposition of prejudgment interest in *Gilliam* was warranted, given serious errors—addressed earlier in its decision—regarding the damages award, including the district court's refusal to account for "at least … $10 million that the plaintiffs received in prior settlements" for the same injuries. *Id.* at 846-47.

More fundamentally, the reversal in *Gilliam* turned primarily on the Fourth Circuit's "assum[ption]," "absent any indication to the contrary," that "the jury awarded fully compensating damages" to the plaintiffs. *Id.* at 848-49. But that assumption is not present here: there are exactly the "indication[s] to the contrary" in this case that were missing in *Gilliam*. Plaintiffs' request for compensatory damages was capped at the amount that Plaintiffs represented to CACI and to the Court that they would request several years earlier, and that amount reflected damages without accounting for the time value of money since the date of the harm. *See* ECF No. 1357 (under seal) at 1-4. Indeed, that is precisely why Plaintiffs emphasized at the time that they would seek prejudgment interest on any compensatory damages award—a proposition that neither CACI nor the Court suggested was improper. *See id.* at 2-4; ECF No. 1421 (CACI reply brief, submitted months after the *Gilliam* decision, responding to Plaintiffs' calculation of damages without even mentioning prejudgment interest); *see generally* Dec. 15, 2023 Hearing Tr. (no opposition or objection to Plaintiffs seeking prejudgment interest in the discussion of damages calculation).

Additionally, *Gilliam* emphasized that prejudgment interest was speculative in that case, because—unlike here—the District Court had expressly instructed the jury to award compensatory damages for harms that plaintiffs were "reasonably likely to suffer *in the future*," such future damages could not bear interest, and the court did not know what portion of the damages awarded were "future." 62 F.4th at 849-50 (emphasis in original). Here, the jury was not instructed to award damages for future harm, *see* Nov. 7, 2024 Tr. at 132:5-133:12 (jury instructions regarding compensatory damages), and Plaintiffs requested that the jury "recompense" Plaintiffs for their injuries—i.e., award them damages for harms already incurred, *see id.* at 71:1.

Accordingly, for the reasons explained above, Plaintiffs respectfully submit that they should be awarded prejudgment interest on their compensatory damages.

B. Prejudgment Interest Should Be Awarded At Virginia's Statutory Rate of 6 Percent Per Annum, Running From The Start Date of Each Plaintiff's Injuries

The rate of prejudgment interest for damages awarded on federal claims is a matter left to the discretion of the District Court. *Quesinberry*, 987 F.2d at 1031 (citing *United States v. Dollar Rent A Car Sys., Inc.*, 712 F.2d 938, 940 (4th Cir. 1983)). "The local state interest rate, as provided by state law," is "an appropriate rate of pre-judgment interest, and [the Fourth Circuit] has affirmed awards of pre-judgment interest at the interest rate provided by local state law." *Crump v. United States Dep't of Navy*, 205 F. Supp. 3d 730, 749 (E.D. Va. 2016) (citing cases); *see, e.g.*, *Quesinberry*, 987 F.2d at 1031 (affirming District Court's imposition of the applicable Virginia rates, during the relevant interest period, of 12 percent and 8 percent); *Hines v. Triad Marine Ctr., Inc.*, 487 F. App'x 58, 65-66 (4th Cir. 2012) (affirming district court's use of Maryland's 8 percent statutory interest rate to calculate prejudgment interest); *Cooper v. Paychex, Inc.,* 960 F. Supp. 966, 974 (E.D. Va. 1997) (applying then-applicable Virginia rate of 9 percent), *aff'd*, 163 F.3d 598 (4th Cir. 1998). Plaintiffs respectfully request that this Court employ Virginia's

current statutory interest rate of 6 percent, *see* Va. Code Ann. § 6.2-302, as the rate of prejudgment interest here.

The Court likewise has discretion regarding determining "the date when [prejudgment] interest begins to accrue." *Norfolk S. Ry. Co. v. Moran Towing Corp*., 718 F. Supp. 2d 658, 663 (E.D. Va. 2010). However, such interest "often [is] awarded from the time of injury." *Id.* (quoting *Indep. Bulk Transp., Inc. v. Vessel Morania Abaco*, 676 F.2d 23, 25 (2d Cir. 1982)); *see also, e.g., id.* (finding no basis "to merit departure from th[is] general rule" and awarding interest from date of injury); *McAllister Towing of Virginia, Inc. v. United States*, 2012 WL 1438770, at *11 (E.D. Va. Apr. 25, 2012) (same); *Pugh*, 530 F. Supp. 2d at 265 (fixing start date for prejudgment interest at "the date of the bombing" eighteen years earlier); *Reed v. Islamic Republic of Iran*, 845 F. Supp. 2d 204, 214-15 (D.D.C. 2012) (fixing start date "from the date of the kidnapping" 26 years earlier); *Fritz v. Islamic Republic of Iran*, 466 F. Supp. 3d 13, 20-21 (D.D.C. 2020) ("It is within the Court's discretion to award prejudgment interest from the date of the attack until the date of final judgment" (internal quotation marks and citation omitted)).

Consistent with these cases, prejudgment interest should be awarded from the date of each Plaintiff's injuries.[4] For Mr. Al-Ejaili, that date is November 9, 2003. For Mr. Al-Zuba'e, the date is November 5, 2003. For Mr. Al Shimari, that date is December 1, 2003. *See supra* at 2. Employing Virginia's statutory interest rate, accruing from the date of each Plaintiff's injury, the total prejudgment interest for each Plaintiff is:

- Mr. Al-Ejaili: $3,784,433.10

[4] Although courts may and frequently do "award prejudgment interest, compounded annually," *Crump*, 205 F. Supp. 3d at 749 (E.D. Va. 2016); *see Cooper*, 960 F. Supp. at 974-75 (explaining that "common sense and the equities dictate an award of compound interest"), Plaintiffs do not seek compounded prejudgment interest, but only simple interest on the compensatory damages awards.

- Mr. Al-Zuba'e: $3,786,410.96
- Mr. Al Shimari: $3,773,583.80

C. Plaintiffs Are Entitled to Post-Judgment Interest on the Entire Damages Awards

"In contrast to the district court's discretion in the awarding of pre-judgment interest, federal law mandates the awarding of post-judgment interest." *Quesinberry*, 987 F.2d at 1031; *see* 28 U.S.C. § 1961. Moreover, "[u]nder [28 U.S.C.] § 1961, post-judgment interest should be awarded on the entire amount of the judgment," including punitive damages and prejudgment interest, as "any other result would mean that [plaintiffs] would not be fully compensated for any delay in recovering [their] monetary judgment." 987 F. 2d at 1031-32 (4th Cir. 1993); *see Vandevender v. Blue Ridge of Raleigh, LLC*, 756 F. App'x 230, 232 (4th Cir. 2018) (granting motion to amend judgment to award post-judgment interest on punitive damages award).

Plaintiffs thus respectfully request that this Court amend the judgment to reflect that Plaintiffs are entitled to post-judgment interest on the entirety of their damages awards, including both punitive damages and any prejudgment interest to be awarded.

CONCLUSION

For the reasons stated above, Plaintiffs respectfully request that this Court amend the judgment to include both prejudgment and post-judgment interest.

Date: November 26, 2024

Respectfully submitted,

/s/ Charles B. Molster, III

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CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2024, I electronically filed the foregoing, which sends notification to counsel for Defendants.

/s/ Charles B. Molster, III
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