ORIGINAL

SUPREME COURT OF FLORIDA

DAVID KUHNLEIN, et al.,

Appellants/Plaintiffs,

vs.

Case No. 88,266

FLORIDA DEPARTMENT OF REVENUE; et al.,

District Court of Appeal, Fifth District - No. 96-378

Appellees/Defendants.

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APPELLANTS' REPLY BRIEF

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STATEMENT OF THE LAW AND ARGUMENT

A. The Florida Supreme Court's ruling in Kuhnlein II mandates an award of postjudgment interest to Class Plaintiffs.

In the first section of their Initial Brief, Class Plaintiffs argued that this Court's ruling in Kuhnlein v. Department of Revenue, 662 So. 2d 308 (Fla. 1995) ("Kuhnlein II"), mandates an award of postjudgment interest because Class Plaintiffs fulfilled the condition precedent set forth in Kuhnlein II for the recovery of postjudgment interest, by finalizing the money judgment entered in their favor. Specifically, this Court ruled in Kuhnlein II that Class Plaintiffs were not at that time entitled to postjudgment interest because "there is not a final money judgment, and therefore there is not at present an entitlement to postjudgment interest in this case under these circumstances." Kuhnlein II, 662 So. 2d at 308 (emphasis added). See Department of Revenue v. Brock, 21 Fla. L. Weekly D1120 (Fla. 1st DCA May 7, 1996) ("[T]he court [in Kuhnlein II] stated that it was affirming the denial of post-judgment interest because there was not yet a final money judgment"). This Court then remanded the case to the trial court to "finalize this action by determining and entering an order as to attorney fees and costs to be paid out of the common fund and entering an order to implement the refund plan approved by the circuit court." Id. (emphasis added).

Pursuant to this Court's mandate in Kuhnlein II, the trial court "finalized" the money judgment in Class Plaintiffs' favor on July 13, 1995, by ruling on the outstanding issues of attorneys' fees, costs, and the refund plan. [R 3234-51; 3252-54; 3261-63]. As this Court later acknowledged, the trial court thus fulfilled all aspects of this Court's remand order in Kuhnlein II. See Kuhnlein v. Department of Revenue, 662 So. 2d 309, 310 (Fla. 1995) ("Kuhnlein III"). Because the money judgment became "final" as of July 13, 1995, this Court's ruling in Kuhnlein II logically dictates that Class Plaintiffs became entitled to postjudgment interest as of July 13, 1995.

In response to this argument, the State blames this Court for "confusion" as to whether "this Court in Kuhnlein II receded from the long held policy of not awarding postjudgment interest in tax refund cases." Answer Brief at 5. The State's argument in this regard, however, is faulty in two main respects. First, it rests on the false premise that there is precedent for not awarding postjudgment interest in tax refund cases. To the contrary, no court has ever denied postjudgment interest on a final money judgment consisting of tax refunds. Second, any "confusion" surrounding this Court's ruling in Kuhnlein II is created by the State's own efforts to obfuscate that decision, and to blur the clear distinction between prejudgment and postjudgment interest in tax refund cases. In fact, the common error that runs throughout the State's Answer Brief is its exclusive reliance on cases that have disallowed prejudgment, as opposed to postjudgment, interest in tax refund cases. The State does not cite any decision, by this Court or by any other appellate court in the State of Florida, that denied postjudgment interest on a final judgment awarding a tax refund. The reason is simple: no such cases exist. As in every other setting involving an award of money, Florida courts routinely award postjudgment interest on tax refunds without exception.

In Kuhnlein II, this Court recognized the difference between prejudgment and postjudgment interest in tax refund cases. The Court affirmed the denial of prejudgment interest in Kuhnlein II because "there is no entitlement to prejudgment interest in this action to recover a tax refund." Kuhnlein II, 662 So. 2d at 308. Indeed, Class Plaintiffs readily acknowledge that no court has previously awarded prejudgment interest on a tax refund, as no taxpayer has been able to meet the stringent standard of demonstrating "inequitable conduct" by the taxing authority in order to justify an award of prejudgment interest. On the other hand, this Court in Kuhnlein II denied postjudgment interest for an altogether different reason: "[T]here is not a final money judgment, and therefore there

is not at present an entitlement to postjudgment interest." Id. (emphasis added). This Court then instructed the trial court to "finalize" this action, which the trial court accomplished on July 13, 1995, when it ruled on all of the remaining issues in this case. Pursuant to this Court's clear mandate in Kuhnlein II, Class Plaintiffs became entitled to postjudgment interest as of the date their money judgment became final, July 13, 1995.

By claiming "confusion" inherent in Kuhnlein II, the State is effectively asking this Court to rehear or clarify its decision in Kuhnlein II, without having properly sought such relief on a timely basis following that decision. Moreover, there is nothing for this Court to clarify: as the First District Court of Appeal recognized earlier this year in awarding postjudgment interest on a tax refund, this Court in Kuhnlein II clearly distinguished between prejudgment and postjudgment interest:

> In that case [Kuhnlein II] the Florida Supreme Court expressly ruled that there is no entitlement to prejudgment interest on a tax refund, but did not hold that there cannot be post-judgment interest on a tax refund. Instead, the court stated that it was affirming the denial of post-judgment interest because there was not yet a final money judgment, and relinquished jurisdiction to the circuit court for entry of a final order. (Emphasis added).

Department of Revenue v. Brock, 21 Fla. L. Weekly D1120 (Fla. 1st DCA May 7, 1996).

This Court's careful distinction between prejudgment and postjudgment interest in Kuhnlein II was consistent with previous decisions by this Court and others that expressly recognized that an award of postjudgment interest is not dependent on an award of prejudgment interest. First, in Palm Beach County v. Town of Palm Beach, 579 So. 2d 719 (Fla. 1991), the County argued against an award of postjudgment interest on certain ad valorem taxes ordered to be remitted to seventeen cities. The County based its argument against postjudgment interest on this Court's decisions in

University Presbyterian Homes, Inc. v. Smith, 408 So. 2d 1039 (Fla. 1982), and Mailman v. Green, 111 So. 2d 267 (Fla. 1959). However, in rejecting the County's argument and awarding postjudgment interest, this Court explained that "Presbyterian Homes and Mailman are distinguishable in that they involve the question of prejudgment interest, a question not presented here." Palm Beach County, 579 So. 2d at 720.[1] Thus, this Court refused to apply the standard for prejudgment interest in deciding the postjudgment interest issue in favor of the cities. The fact that the cities did not recover prejudgment interest on the taxes due them did not defeat their right to recover postjudgment interest.

Likewise, in Miller v. Agrico Chemical Co., 383 So. 2d 1137 (Fla. 1st DCA 1980), the First District Court of Appeal affirmed the trial court's award of postjudgment interest on the refund of certain state taxes. The First District noted that the cases cited as authority by the State in opposing postjudgment interest "deal with claims for interest from the date of payment of the tax," as opposed to "interest accruing from the date of judgment." Id. at 1139-40 (emphasis added). The First District thus upheld the principle that postjudgment interest can, and must, be awarded on tax refunds even where prejudgment interest is not also awarded.

In Lewis v. Anderson, 382 So. 2d 1343 (Fla. 5th DCA 1980), moreover, the Fifth District Court of Appeal also recognized that postjudgment interest on a state tax refund must be awarded despite the denial of prejudgment interest. In Lewis, the Fifth District reversed an award of

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[1]It is noteworthy that in Presbyterian Homes, the tax collector did not even challenge the award of postjudgment interest on the tax refund at issue. See Smith v. University Presbyterian Homes, Inc., 390 So. 2d 79, 80 (Fla. 2d DCA 1980). The tax collector obviously understood that postjudgment interest is due on a tax refund notwithstanding any separate considerations with respect to an award of prejudgment interest.

prejudgment interest on a state tax refund based on Mailman and its progeny, but it noted that interest would still be due "on the judgment appealed from in this case from the date of the judgment." Id. at 1343 n.1.

Thus, this Court's ruling in Palm Beach County, the First District's ruling in Miller, and the Fifth District's ruling in Lewis defeat the State's attempt to treat postjudgment interest analytically the same as prejudgment interest. These cases unmistakably demonstrate that postjudgment interest is due notwithstanding any adverse determination regarding prejudgment interest.[2] This Court reaffirmed this principle in Kuhnlein II by treating prejudgment and postjudgment interest dissimilarly and by recognizing that postjudgment interest can be awarded on a final money judgment despite its denial of prejudgment interest. This Court should now effectuate its holding in Kuhnlein II by awarding Class Plaintiffs postjudgment interest from July 13, 1995, the date on which Class Plaintiffs' money judgment became "final."

B. Florida law provides that postjudgment interest begins to accrue from the date of judgment adjudicating entitlement to a sum of money.

After disregarding the historical distinction between prejudgment and postjudgment interest, the State then ignores well-settled Florida law that provides that postjudgment interest becomes due from the date a judgment adjudicates the entitlement to a sum of money, even where the actual amount of money to be recovered is determined subsequently. In fact, the State's Answer Brief does

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[2]See also Florida Ins. Guar. Ass'n v. Gustinger, 390 So. 2d 420, 421 n.2 (Fla. 3d DCA 1980) (Notwithstanding FIGA's non-liability for prejudgment interest under § 631.57(1)(b), Florida Statutes, "FIGA remains responsible for the payment of lawful interest on the final judgment itself from the date of entry"); Florida Ins. Guar. Ass'n v. Jacques, 643 So. 2d 101, 103 (Fla. 4th DCA 1994) ("[A]lthough FIGA may be liable for postjudgment interest, it is not liable for prejudgment interest").

not even address, let alone rebut, any of Class Plaintiffs' arguments in the second section of their Initial Brief, which addresses the standard for determining when postjudgment interest begins to accrue on any judgment.

For instance, the State has no answer to the ruling in City of Miami Beach v. Jacobs, 341 So. 2d 236 (Fla. 3d DCA 1976), cert. denied, 348 So. 2d 945 (Fla. 1977), cert. denied, 434 U.S. 939 (1977), where the Third District Court of Appeal affirmed an award of postjudgment interest on refunds due a class of taxpayers:

> We find no error in the provisions of the order which conferred upon the members of the class interest on the amounts to which the court found the city was obligated to reimburse them. The interest provided for by the court was that which would accrue from the time of the entry of the judgment determining the plaintiffs were entitled to refunds from the city, as provided for by Section 55.03, Florida Statutes. Id. at 238 (emphasis added).

In this case, pursuant to Kuhnlein II, Class Plaintiffs' entitlement to refunds from the State became "final" on July 13, 1995, when the trial court ruled on the remaining issues in the case. The fact that the exact amounts of the refunds were subsequently fixed after this Court ruled on the issues of attorneys' fees and costs due Class Counsel from the common fund, in Kuhnlein III, does not affect the accrual of postjudgment interest from the date on which entitlement to recovery was finally adjudicated, July 13, 1995. See McNitt v. Osborne, 371 So. 2d 696, 697 (Fla. 3d DCA 1979) ("There seems to be no decision anywhere in which interest has been held to accrue at any point subsequent to the entry of a final judgment"). Consistent with City of Miami Beach, supra, the critical date for accrual of postjudgment interest is the adjudication of entitlement to recovery as opposed to any subsequent adjudication of the exact amount to be recovered. See, e.g., Fischbach & Moore, Inc. v. McBro, 619 So. 2d 324, 325 (Fla. 3d DCA 1993) ("[F]or purposes of assessing

post-judgment interest, a claim becomes liquidated and subject to interest when a verdict or court decision has the effect of fixing entitlement to the fee as of a prior date").

For example, in Fischbach & Moore, although an amount of attorneys' fees was not fixed until two years after entitlement to those fees was adjudicated, the Third District Court of Appeal held that postjudgment interest "started accruing from the date the attorney's right to receive the fee was fixed." Id. Accord Bailey v. Leatherman, 668 So. 2d 232, 233 (Fla. 3d DCA 1996) ("[P]ost-judgment interest on an award of attorney's fees and costs starts to accrue from the date that the trial court finds that the party was entitled to such an award, even though the amount was not determined until a later date"); Tallahassee Memorial Regional Medical Center, Inc. v. Poole, 547 So. 2d 1258, 1260 (Fla. 1st DCA 1989) ("The fact that subsequent to the date of the verdict the parties continued to dispute Poole's entitlement to and the amount of attorney's fees from TMRMC is irrelevant"). As this Court has recognized, postjudgment interest accrues from the date of an original verdict rather than from the date of judgment on a reduced verdict: "The date of the verdict controls." Green v. Rety, 616 So. 2d 433, 434 (Fla. 1993).

Based on the foregoing authorities, the trial court's denial of postjudgment interest on the ground that the refunds were not reduced to a "definitive monetary amount" at the time it finalized this action on July 13, 1995, was misguided. So too was the trial court's concern that a "computation of interest could never be accomplished," given the fact that a computation of postjudgment interest on each individual refund is but a ministerial task that can be objectively determined based on the amount and date of each refund payment. In its Answer Brief, the State does not even attempt to defend the trial court's denial of postjudgment interest on this basis. Rather, the State raises spurious policy arguments that "awarding interest in tax refund cases will

'chill' state officers from upholding and enforcing state statutes," and also "cause budgetary problems." Answer Brief at 23-24. However, the State just doesn't get it: as this Court has repeatedly admonished, the $187 million in vehicle impact fees that the State unconstitutionally collected from its citizens was never the State's money to begin with. See Department of Revenue v. Kuhnlein, 646 So. 2d 717, 726 (Fla. 1994) ("Kuhnlein I") ("[T]he impact fee was void from its inception because the legislature acted wholly outside its constitutional powers. The only clear and certain remedy is a full refund to all who have paid this illegal tax"). Yet the State vigorously enforced this facially unconstitutional tax for over three years (from July 1991 until October 1994), even after the trial court's summary judgment in November 1993 striking it down. The State, moreover, enjoyed the use and benefit of the $187 million in unconstitutional tax monies for over four years, until it began refunding them in November 1995. Despite this fact, no interest has been paid on any of the refunds.

Even now, over one year after this Court ruled on the amount of attorneys' fees and costs due Class Counsel (in Kuhnlein III), approximately 27,500 claimants still await their refunds. See Composite Exhibit "A," Appendix to Appellants' Initial Brief. The end result may be an increase, from approximately $9.5 million to over $17 million, in residual monies that the State will keep after the issuance of all refunds. Id. The simple fact is that an award of postjudgment interest here will not only prevent rewarding the State for its unconstitutional conduct, but it will also, more importantly, promote responsibility in the functioning of state government. As with any judgment, the accrual of postjudgment interest serves as an incentive to promptly satisfy the judgment amount -- in this instance, issue refunds without delay. In any event, the award of postjudgment interest in

this case will not cost the State anything; it will merely reduce the windfall that the State will reap in terms of the massive residual created by this Court's ruling in Kuhnlein III.

Finally, the State's policy concerns overlook an option readily available to it: in order to prevent the accrual of interest altogether, the State could either make an unconditional tender of the full amount due on the judgment, or place the funds in the registry of the court. See, e.g., Devolder v. Sandage, 575 So. 2d 312, 313 (Fla. 2d DCA 1991); Metropolitan Dade County v. Rolle, 21 Fla. L. Weekly D1924, D1925 (Fla. 1st DCA Aug. 23, 1996). Indeed, Class Plaintiffs asked the State to escrow the vehicle impact fees in an interest-bearing account in December 1993, but the State refused. [R1387; 1398; 1422; 1476]. Instead, the State opted to maximize its use and benefit of the fees that it continued to collect, waiting for two years before beginning the refund process. Under these circumstances, the State certainly cannot claim any prejudice in having to pay postjudgment interest from July 13, 1995, while Class Counsel's fees were litigated on appeal. See Metropolitan Dade County, 21 Fla. L. Weekly at D1925 ("[W]e hardly think it can validly claim that it has been prejudiced by being required to pay interest on an amount it did not dispute on appeal").

C. Class Plaintiffs are entitled to postjudgment interest as a matter of law under § 55.03.

1. The Florida Supreme Court has consistently awarded postjudgment interest under § 55.03 on judgments against the State and other governmental entities.

Section 55.03(1), Florida Statutes, provides that all judgments "shall" bear postjudgment interest.[3] As noted in the third section of Appellants' Initial Brief, this Court has consistently held

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[3]Obviously, the judgment must be a money judgment, i.e., a judgment wherein a party "recovers a sum of money" (§ 55.01, Fla. Stat.), in order to bear postjudgment interest under § 55.03(1). The State stretches the limits of credulity by suggesting that the judgment in this case is (continued...)

that no statutory authority other than § 55.03 is necessary to award postjudgment interest on a judgment against the State. See, e.g., Florida Livestock Bd. v. Gladden, 86 So. 2d 812, 813 (Fla. 1956) (§ 55.03 permits the prevailing party to recover postjudgment interest from the State, agreeing with plaintiffs' argument that § 55.03 "applies to all judgments and makes no exceptions in favor of the state"); Stone v. Jeffres, 208 So. 2d 827, 829 (Fla. 1968) (Because § 55.03 provides postjudgment interest on "all judgments and decrees," there is "little justification for making a specific exception and excluding interest on compensation awards of attorney's fees"); Roberts v. Askew, 260 So. 2d 492, 495 (Fla. 1972) (§ 55.03 "provides that all judgments and decrees shall bear interest . . . This statute and other applicable statutes make no exemption in favor of the Trustees from the obligation to pay interest on a judgment rendered against the Trustees") (emphasis added).

Further, despite the State's gross distortion of this Court's decision in Palm Beach County v. Town of Palm Beach, 579 So. 2d 719 (Fla. 1991), that decision stands for the unequivocal principle that § 55.03 applies to all judgments against all parties, including governmental entities, without exception. In Palm Beach County, this Court addressed the following certified question:

> IS A GOVERNMENTAL ENTITY IMMUNE FROM THE PAYMENT OF POSTJUDGMENT INTEREST UNDER THE DOCTRINE OF SOVEREIGN IMMUNITY? Id. at 719.

This Court answered the certified question in the negative, finding that "the question presented is governed by section 55.03, Florida Statutes." Id. at 720. The Court expressly rejected

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[3](...continued)
not a money judgment. Answer Brief at 8-15. That a judgment awarding in excess of $187 million in refunds is a money judgment is self-evident. Accord Brock, 21 Fla. L. Weekly at D1120 (Final summary judgment awarding plaintiffs a state tax refund "is a final money judgment, and therefore there is now an entitlement to post-judgment interest") (emphasis in original).

the argument that § 55.03 "is inapplicable because interest may only be awarded when the right to interest can be implied from the language of a statute which waives sovereign immunity." Id. As this Court explained:

> In this instance, we find it unnecessary to look for an underlying statute to imply interest, when section 55.03 expressly provides for postjudgment interest without listing any exception to its application. Id. (emphasis added).

Accordingly, this Court's decision in Palm Beach County refutes the States persistent argument that sovereign immunity prevents the award of interest in tax refund cases. Answer Brief at 15-22. The State does not even address, let alone overcome, Palm Beach County in that section of its Answer Brief. Id. Instead, earlier in its Answer Brief, the State mischaracterizes Palm Beach County as a "tort" case in an effort to limit the decision to its facts. Answer Brief at 10-12.[4] To the contrary, this Court could not have been clearer: § 55.03 "expressly provides for postjudgment interest without listing any exception to its application." Palm Beach County, 579 So. 2d at 720.[5]

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[4]The State justifies the award of postjudgment interest in Palm Beach County under its view that interest can be paid on a judgment whenever the governmental entity breaches a contract or commits a tort. However, not only is there no case law authority for such a limitation, but it also contravenes basic public policy: why should the State be required to pay interest when it breaches a contract but not when it infringes upon its citizens' constitutional rights?

[5]The State also attempts to mislead the Court by arguing that this Court implicitly applied the test for prejudgment interest (articulated in Mailman) to the issue of postjudgment interest in Palm Beach County. Answer Brief at 11-13. Exactly the opposite is true: this Court expressly refused to apply Mailman because that case involves "the question of prejudgment interest, a question not presented here." Palm Beach County, 579 So. 2d at 720. See Dryden v. Madison County, 672 So. 2d 840, 843 (Fla. 1st DCA 1996) (noting that Palm Beach County was not a prejudgment interest case). As set forth in the first section of this Reply Brief, Palm Beach County stands for the proposition that postjudgment interest must be awarded under § 55.03 without exception, regardless of the unavailability of prejudgment interest.

Similarly, the State cannot bypass this Court's finding in Palm Beach County that a statute other than § 55.03 is unnecessary to waive the State's sovereign immunity for purposes of awarding postjudgment interest. In addition to its reliance on § 55.03, this Court explained in Palm Beach County that "[o]nce the governmental entity has fully litigated the issue of its immunity and has lost on the merits, we see no reason why it should be shielded from paying interest on the judgment." Id. at 721. Similarly, the State fully litigated the issue of its alleged sovereign immunity in this case and lost that argument on the merits. See Kuhnlein I, 646 So. 2d at 721 ("Sovereign immunity does not exempt the State from a challenge based on violation of the federal or state constitutions, because any other rule self-evidently would make constitutional law subservient to the State's will"). Where sovereign immunity did not pose an obstacle to Class Plaintiffs' recovery of a full refund, a denial of postjudgment interest on those refunds based on sovereign immunity would be incongruous and flatly inconsistent with § 55.03, Palm Beach County, and Kuhnlein I (as well as Kuhnlein II).

Finally, in presenting its immunity argument, the State poses an impertinent rhetorical question: if § 55.03 "automatically applies to the State, why would there have been a need to create the two interest statutes [§ 215.422(3)(b) and § 220.723, Florida Statutes]?" Answer Brief at 7-8, 20. The State answers that question by arguing that the Legislature knew that § 55.03 did not apply to interest on tax refunds. Id. The real answer, however, is simpler and further indicative of the State's intentional effort to blur the distinction between prejudgment and postjudgment interest: both § 215.422(3)(b) and § 220.723, allow the payment of interest that is prejudgment in nature. See § 215.422(3)(b) (if warrant in payment of an invoice is not issued to vendor within forty days after receipt of the invoice, vendor shall be paid interest "on the unpaid balance from the expiration of such 40-day period until such time as the warrant is issued to the vendor"); § 220.723(2) (interest

to be paid on corporate income tax overpayments "shall accrue from the date upon which the taxpayer files a written notice advising the department of the overpayment . . . until such date as determined by the department, which shall be no more than 7 days prior to the date of the issuance by the Comptroller of the refund warrant"). Contrary to the State's mischaracterization of those statutes, neither of them involve the payment of postjudgment interest on judgments. The State's argument in this regard is simply irrelevant, and it fails to overcome this Court's clear ruling in Palm Beach County that no statute other than § 55.03 is necessary to award postjudgment interest against a governmental entity.

2. Florida district courts of appeal have uniformly awarded postjudgment interest on tax refunds ordered against the State and local governments.

As Class Plaintiffs noted in the last section of their Initial Brief, numerous Florida District Courts of Appeal have, like this Court, consistently awarded postjudgment interest on judgments against the State and other governmental entities for tax refunds and other sums of money. See, e.g., Department of Revenue v. Brock, 21 Fla. L. Weekly D1120 (Fla. 1st DCA May 7, 1996) (citing Palm Beach County, First District Court of Appeal affirms award of postjudgment interest on a state tax refund, holding that the entry of a final judgment adjudicating the plaintiffs' right to a tax refund carried with it an entitlement to postjudgment interest thereon); Miller v. Agrico Chemical Co., 383 So. 2d 1137, 1139-40 (Fla. 1st DCA 1980) (citing § 55.03, First District Court of Appeal approves award of interest on refunds of certain state severance taxes, "accruing from the date of judgment"); City of Miami Beach v. Jacobs, 341 So. 2d 236, 238 (Fla. 3d DCA 1976), cert. denied, 348 So. 2d 945 (Fla. 1977), cert. denied, 434 U.S. 939 (1977) (citing § 55.03, Third District Court of Appeal affirms trial court's order for postjudgment interest "which would accrue from the time of the entry

of the judgment determining the plaintiffs were entitled to refunds from the city"); Lewis v. Anderson, 382 So. 2d 1343, 1343 n.1 (Fla. 5th DCA 1980) (citing City of Miami Beach, Fifth District Court of Appeal recognizes that § 55.03 provides a basis to collect "interest on the judgment appealed from in this case from the date of the judgment").

Significantly, the State made no effort in its Answer Brief to address, distinguish, or overcome the rulings in Brock, Miller, City of Miami Beach, or Lewis that awarded postjudgment interest on refunds ordered against both local and state governments. The State's silence in this regard speaks volumes: these decisions, together with this Court's ruling in Palm Beach County, defeat the State's contention that Class Plaintiffs are not entitled to postjudgment interest on their refunds under § 55.03. Indeed, these cases merely applied this Court's repeated admonition that § 55.03 requires the payment of postjudgment interest on all judgments without exception. Palm Beach County, 579 So. 2d at 720; Roberts, 260 So. 2d at 495; Stone, 208 So. 2d at 829; Florida Livestock, 86 So. 2d at 812-13. This case provides no exception; § 55.03 mandates the award of postjudgment interest to Class Plaintiffs. Consistent with Kuhnlein II, Class Plaintiffs should be paid postjudgment interest on their respective refunds from July 13, 1995, the date on which this action was "finalized" by the trial court pursuant to this Court's instructions.

CONCLUSION

Class Plaintiffs urge this Court to adhere to the plain language of § 55.03 and to its previous rulings in Palm Beach County and Kuhnlein II. Accordingly, this Court should reverse the trial court's Final Order on Class Plaintiffs' Motion for Determination of Postjudgment Interest, and instruct the trial court to award postjudgment interest on each refund paid to Class Plaintiffs from July 13, 1995, through the date of payment of each such refund.

Respectfully submitted this 21st day of October, 1996.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to ERIC J. TAYLOR, ESQUIRE, Assistant Attorney General, The Capitol, Tax Section, Tallahassee, Florida 32399-1050; and JOSEPHINE A. SCHULTZ, Assistant General Counsel, Office of the Comptroller, The Fletcher Building, Suite 526, 101 E. Gaines Street, Tallahassee, Florida 32399-0350, this 21st day of October, 1996.

Michael J. Beaudine