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CONTRACTS - ESCROW - WHO GETS THE INTEREST?

In the absence of statute or case law to the contrary, parties are held to have read and understood the language of the contract they sign, and all terms of the contract govern the relationship of the parties. (One of the secrets of the practice of law is merely reading the contract). But what if the contract is silent on an issue? Then you have to rely upon the pronouncements of statutes and the case law, and your lawyer.

Interest on escrow funds

If not mentioned in the contract, the interest is payable to the owner of the escrowed funds.

See McCarthy Building Companies et al v. The City of St. Louis Missouri, No. 79794 (Mo.App.E.D., April 23, 2002). The court there resolved a dispute over interest on a typical 10% retainage to assure performance of a construction contract. However, the court described it as a typical escrow arrangement in which the property is deposited with a third person for delivery to another only upon the occurrence of a stated condition, and said that "the party who deposits property into an escrow account is the owner of the account and retains title until performance of a condition by the other party." Therefore, any accrued interest belongs to that owner.

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