

5/15/01

SUPREME COURT OF LOUISIANA

No. 00-C-0414

GEORGE CHITTENDEN AND ROBERTA KAY CHITTENDEN

versus

***STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, ET
AL***

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FOURTH CIRCUIT, PARISH OF ORLEANS

VICTORY, J., concurring

The majority today decides that because advancing funds to a client was approved by this court in **LOUISIANA STATE BAR ASSN. V. EDWINS**, 329 So. 2d 437 (La. 1976), a lawyer can also reasonably require the payment of interest on such advances at the legal rate where no agreement on a specific interest rate is made. In **EDWINS**, we held that payment of certain minimal living expenses for a client did not violate the intent or spirit of the ethical rules for professional conduct then in force, reasoning that such expenses were akin to “expenses of litigation” as they enable a plaintiff to withstand the delays of litigation. We opined that the same result should obtain under the subsequently enacted Code of Professional Responsibility.

Had I been on this court when **EDWINS** was decided, I would have joined in the dissent filed by Justice Dixon. However, since our court has long followed the **EDWINS** rule and the bar has ordered its conduct in accordance therewith, I concur rather than dissent in the result reached today. Nevertheless, in my view lawyers should be prohibited from advancing money to clients and from charging interest on such loans except where expressly permitted to do so by RPC Rule 1.8(e). Hopefully, the committee we will appointed to study these issues will agree. See

footnote 10 of the majority opinion.