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STATE OF MINNESOTA
IN COURT OF APPEALS

MIDLANDS CREDIT MANAGEMENT
Respondent

v.

COURT OF APPEALS NO.: A10-1241

ELDRIDGE CHATMAN
Appellant

APPELLANT'S BRIEF

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

STATEMENT OF LEGAL ISSUE

- I. ARE THE PROCEEDS FROM A SETTLEMENT AGREEMENT FOR A PERSONAL INJURY, WHICH WAS INCURRED AFTER DEFAULT JUDGMENT FOR A DEBT BUT DEPOSITED BEFORE GARNISHMENT, PROTECTED FROM LEVY UNDER MINN. STAT. § 550.37, SUBD. 22?

TABLE OF AUTHORITIES

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STATEMENT OF THE CASE

1. On June 30, 2006, Respondent obtained a default judgment against Appellant for \$32,101.72.
2. On June 1, 2010, Respondent levied Appellant's various bank accounts for the amount of \$20,870.14.
3. On June 3, 2010, Appellant timely filed notice of exemption under Minn. Stat. § 550.37, subd. 22, and Respondent timely objected.
4. On June 15, 2010, after hearing stipulations of facts, the trial court requested that the case be submitted on briefs from both parties.
5. On June 21, 2010, after hearing the case submitted on briefs from both Appellant and Respondent, the trial court denied Appellant's motion for an exemption and granted permission for the levy to proceed.
6. As there has been a final disposition of the case, this appeal follows.

STATEMENT OF FACTS

The essential facts were submitted to the trial court as stipulated by both parties. Prior to 2006 Appellant Eldridge Chatman bought a 1996 Ford Explorer from Household Auto Finance. Mr. Chatman began making payments, but was not able to continue payments for the term of the loan, and the vehicle was repossessed. In June 2006 Midland Credit Management, successor in interest to Household Auto Finance and the new owner of the loan, filed suit against Mr. Chatman for the loan principle and substantial interest and fees, totaling \$32,101.72. A default judgment was entered in the case against Mr. Chatman on June 30, 2006.

In April 2008, Mr. Chatman was involved in an incident with police which left him in need of two brain surgeries and unable to work. Mr. Chatman settled his suit with the Minneapolis police department, and deposited that settlement check in the bank accounts at issue in the current case. Those deposits were on September 30, 2009.

On June 1, 2010 Respondent Midland Credit Management levied those accounts to pay the default judgment from 2006. The total balance between Mr. Chatman's four accounts was \$20,902.14; the total amount levied was \$20,870.14, leaving Mr. Chatman with \$32. Mr. Chatman timely filed notice of exemption on the basis of Minn. Stat. § 550.37, subd. 22, and Respondent objected. The trial

court denied Mr. Chatman's motion for exemption, effectively rendering final judgment for Respondent. This appeal follows.

STANDARD OF REVIEW

Questions of law are reviewed *de novo*. *Bondy v. Allen*, 635 N.W.2d 244, 249 (Minn.Ct.App. 2001). "A reviewing court need not defer to the district court's application of the law when the material facts are not in dispute." *Engler v. Wehmas*, 633 N.W.2d 868, 872 (Minn. App. 2001) (citing *Hubred v. Control Data Corp.*, 442 N.W.2d 308, 310 (Minn. 1989)), *review granted* (Minn. Dec. 19, 2001), *appeal dismissed* (Minn. Apr. 5, 2002).

ARGUMENT

I. Legal Standard

Minn. Stat. § 550.37, subd. 22 exempts from levy or garnishment "[r]ights of action for injuries to the person of the debtor or of a relative whether or not resulting in death."

"Proceeds from a personal injury settlement which are paid and received in full prior to the filing of the [bankruptcy] petition are property of the estate and are not exempt pursuant to Minn. Stat. § 550.37(22)." *In re Proctor*, 186 B.R. 466, 467 (D.Minn. 1995) (emphasis added).

“[Minn. Stat. § 550.37, subd. 22] is to be construed broadly in favor of the debtor.” *In re Gagne*, 163 B.R. 819, 823 (D. Minn. 1994); *In re Carlson*, 40 B.R. 746, 749 (D.Minn.1984).

II. The Law And Policy of Minn. Stat § 550.37, subd. 22 Favor Granting An Exemption For Proceeds Of A Personal Injury Suit In This Case

The trial court denied Appellant’s request for exemption on the basis that the right of action exemption for personal injuries under Minn. Stat. § 550.37, subd. 22 was intended to prevent attempted garnishment of unrealized funds. June 21, 2010 Order at 3 (App’x at 3). Implicit in the court’s ruling was the acknowledgment that Appellant’s request for exemption was for a “right of action” under the statute; the court’s denial on the basis that the funds were unrealized goes to the “pending or future” nature of the bankruptcy courts’ interpretation. The trial court said,

[i]t seems to this court that a “pending or future cause of action” is exempt because the money that could potentially come from the cause of action is not realized – it is not in the debtor’s possession. It is only the possibility of funds, and the amount of money that will ultimately come into the debtor’s possession is simply not known. To base a garnishment on unknown, unrealized funds could lead to extended legal proceedings where a case could remain open without actual resolution for an extended period of time, and could ultimately result in no funds being available because the right of action failed for one reason or another.

Id. Minnesota state courts have never addressed the question of whether the correct reading of the statute involves the extra “pending or future cause of action”

language added by the federal bankruptcy courts (see n. 1, *infra* p. 7). But because the trial court's conclusion as it stands is not supported in the law or the policy behind the statute, this decision must be reversed.

A. The Trial Court's Conclusion Is Not Supported In The Context Of The Statute

Because the Minnesota Constitution Article I, Section 12 preserves a "reasonable amount of property" from creditors, Minn. Stat. § 550.37 contains more than 20 classes of personal property, each of which is exempt from garnishment or levy. These include exemptions for personal goods such as clothing, food, and utensils; an exemption for one car, trade tools, public assistance, and employee benefits. Minn. Stat. § 550.37. Each of these classes of exempt property (car, food, clothing, trade tools, money) are necessary for sustenance of a person or family. Even those exemptions for monetary benefits are clearly intended to exempt that money because it is necessary for the sustenance of a person or family, not because such money is unrealized. *See, e.g.*, Minn. Stat. § 550.37, subd. 24 (exempting "[t]he debtor's right to receive *present or future* payments [of employee benefits] to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of \$30,000 and additional amounts under all the plans and contracts *to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor*" (emphasis added)). Like the right of action for personal injury, future employee benefits are unrealized, yet the statute exempts both present (i.e. realized) and future benefits.

This cuts strongly against the court's argument that rights of action for personal injury are exempted because they are unrealized.

Even more telling is the fact that Minn. Stat. § 550.37, subd. 22 exempts rights of action for personal injury, but not other rights of action. A different right of action such as a defamation action, conversion action, or contract action would be equally unrealized, yet the legislature chose to exempt only personal injury rights of action. Personal injury rights of action are not uniquely unrealized. In interpreting the legislative meaning, therefore, it is most logical to assume that the exemption had more to do with the personal injury nature of the right of action, not with its likelihood of realization. Given the strong policy behind preserving a reasonable mode of living for debtors and making whole those who have been injured, the policy favors reading the personal injury right of action as exempting Appellant's funds.

B. The Trial Court's Conclusion Is Not Supported By Case Law

The courts, including the Minnesota Supreme Court, support the fact that the exemption statutes are designed not to streamline and clarify the collections process, but to allow debtors to preserve a "reasonable amount of property." Minn. Const. Art. I, Sec. 12. As the Minnesota Supreme Court has stated, "[t]he policy underlying exemption of retirement income from creditors reflects a well founded desire of the legislature to insure that debtors, despite their debts, will nevertheless have a reasonable means to support themselves and their dependents." *Estate of*

Jones by Blume v. Kvamme, 529 N.W.2d 335 (Minn. 1995) (citations omitted). In *Medill*, the Minnesota Supreme Court went further, expressing the policy that the exemption statutes are designed to give a fresh start or to render an injured person whole. *Medill v. State*, 477 N.W.2d 703, 708-09 (Minn. 1991). The supreme court in *Medill* quoted an earlier decision and confirmed that the policy behind the exemption was protection of the debtor.¹ *Id.* at 708 (quoting *Poznanovic v. Maki*, 296 N.W. 415, 417 (1941)); accord *In re Tveten*, 402 N.W.2d 551, 559 (1987) (quoting *Poznanovic*)).

“Under our laws, honest debtors have never been required to pay their creditors with ‘a pound of flesh.’ ” *In re Bailey*, 84 B.R. 608, 610 (D. Minn 1988) (quoting *Duggins v. Hunt*, 323 F.2d 746, 748 (7th Cir.1963)); accord *Colliers on Bankr.* ¶ 70.28[3] (14th ed. 1976); *Sibley v. Nason*, 81 N.E. 887, 889 (1907) (cited in *Ruebush v. Funk*, 63 F.2d 170, 173 (4th Cir.1933)); and § 70(a)(5) of the Bankruptcy Act of 1898 as amended. It is this reasoning that underlies the exemption for rights of action for personal injury, and not (as was the basis for the trial court’s conclusion) the question of whether and how much funds will eventually be realized. June 21 Order at 3 (App’x at 3).

¹ The supreme court in *Medill* was addressing a certified question from the federal district court, and so although the reasoning in *Medill* suggests that the personal injury exemption might extend as far as to protect a debtor’s “human capital” whether “pending or future” or already realized, no state court in Minnesota has ever directly addressed this issue. In either case, *Medill* shows that the reasoning behind the trial court’s ruling in this case is incorrect.

Both the context of the statute and the case law in Minnesota cut against the trial court's ruling. The reasoning offered by Appellant, that the right of action for personal injury exemption cannot be garnished because it is intended to "make a person whole," is supported by the policy behind the statute.

*C. The Trial Court's Conclusion is Not Supported By The Policy Behind
The Statute*

The policy rationale behind exempting some property from judgment is clear. Whether the judgment is in a civil suit or in bankruptcy (the more common use of the exemption and the cases where this statute most frequently appears), these exemptions are intended to uphold the provisions of the Minnesota Constitution by preserving a reasonable means of living below which the state does not intend to let its citizens fall. Minn. Const. Art. I, Sec. 12. Despite a valid judgment, the state has repeatedly insisted that no corporate interest can force a citizen of this state into destitution and the burden of his care onto the taxpayers of the state. *See, e.g., Medill*, 477 N.W.2d at 709. Such exemptions are instead simply the means of setting the threshold of what a creditor can take while still preserving enough so the debtor can live.

The humane and enlightened purpose of an exemption is to protect a debtor and his family against absolute want by allowing them out of his property some reasonable means of support and education and the maintenance of the decencies and proprieties of life.

Poznanovic 296 N.W. at 417. At the same time, the law also recognizes and attempts to prevent debtors from manipulating the system should not be tolerated. *Medill*, 477 N.W.2d at 709. Thus, bankruptcy courts have interpreted the “rights of action” in Minn. Stat. § 550.37, subd. 22 as providing exemption only from pending or future causes of action. *See, e.g., In re Proctor*, 186 B.R. at 468. In a bankruptcy proceeding, this makes perfect sense, as it prevents an injured person from declaring bankruptcy, discharging his medical bills, and keeping the settlement sum intended to pay those debts. *In re Bailey*, 84 B.R. 608, 611 (D.Minn. 1988). However, that is not the case here.

III. This Case Is Distinguishable From The Bankruptcy Cases Which More Commonly Interpret This Provision

The case before the court is distinguishable from the bankruptcy proceedings upon which most court decisions around this exception are based. To illustrate this, it is important to look at the fundamental process of bankruptcy.

In the bankruptcy process, the process *starts* with the petition for bankruptcy and the claims of exemption. It is the filing of this petition which the *Proctor* court cited in limiting the exemption to fully paid pre-filing settlements. *Proctor*, 186 B.R. at 467. In a Chapter 7 bankruptcy such as the one in *Proctor*, on which Respondent has relied, the exemptions are determined *and then* such property as is not exempted is liquidated to satisfy the debts. In a bankruptcy, importantly, the judgment comes *after* and is in the same integral process with the

claim of exemption, and when the claims of the creditors are satisfied to the extent possible, the debtor is cleared and most or all debts are discharged.

In the current case, by contrast, the judgment against Appellant came in 2006, before either the right of action arose or the claim of exemption was made. *At the time of the judgment, therefore, there was a “pending or future” right of action, not a past deposit of proceeds.* Unlike the bankruptcy process, the judgment of the court was made without thought to the state of Mr. Chatman’s debt or any funds he might obtain in the future. The purpose of limiting the exemption on settlement funds, as stated above, is to prevent “windfall” profits to the recipients who could take monies due for (for instance) medical bills, then default on or discharge those bills in bankruptcy, and retain the money intended to pay those bills.

In stark contrast to such manipulation stands Mr. Chatman. Mr. Chatman received a settlement from the police department because he was beaten without provocation so severely that he suffered a subdural hematoma, required two brain injuries, and is now permanently disabled. He is not now working nor is he ever likely to return to work. As the Minnesota Supreme Court has stated in addressing this exemption,

[t]hese policies [protecting a debtor’s fundamental needs from creditors] apply with even more force to the personal injury right of action exemption because it deals not so much with the debtor's property, but with the debtor's human capital. Bankruptcy law protects an individual's human capital by putting it (in the form of

earnings) beyond the reach of creditors. Jackson, *The Fresh-Start Policy in Bankruptcy Law*, 98 Harv.L.Rev. 1393, 1397 (1985). Moreover, “[o]f the various forms of wealth, human capital is not only the least diversifiable, but also has the most direct bearing on the future well-being of the individual and the people who depend on him.” *Id.* at 1432. The debtor who suffers serious personal injury is deprived of using his or her human capital in getting a fresh start.

Medill, 477 N.W.2d at 708. The Minnesota Supreme Court here recognized that the court, in adjudging what a debtor is required to pay, must look to what he has lost.

In this way cases from the bankruptcy process cannot control a proceeding which is, in essence, the exact *opposite* of the bankruptcy process. Ignoring the fact that the judgment came first, Respondent would have this court force Mr. Chatman to pay the full amount immediately, citing to bankruptcy court rulings which would have determined the exemption status *before* making the final judgment on the amount owed.

Importantly, unlike the bankruptcy process, at the end of this court decision (one way or the other) Mr. Chatman will not be free of the debt he owes to the Respondent. Even if he is forced to empty his bank account Mr. Chatman cannot cover the entire amount owed, nor, should Defendants prevail, will Mr. Chatman be discharged of his debt. He will not receive a fresh start, and so the limitations on allowing such a fresh start – by ensuring the maximum payment favored by public policy concerns – are inapplicable as well. Thus, upholding the exemption in this case would not frustrate the policy behind the exemption.

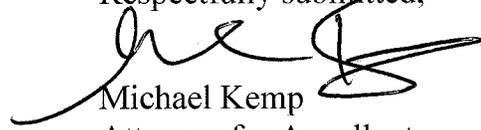
Since no court has directly addressed the unique timing issues presented in this case, and their effect on the legal reasoning of the exemptions, it falls to this court to determine as a matter of law and policy which argument more closely resembles the policy arguments behind the enacted statute and case law. Paramount in this case, as it was to the legislature who enacted the exemption statute and the courts which have consistently upheld it, is the protection of the human person, the citizen of Minnesota. The settlement Mr. Chatman received from the city was a return of Mr. Chatman's "human capital" – essentially, it is the monetary equivalent of the brain function he has lost as a result of the incident. *Krueger v. Henschke*, 298 N.W. 44, 45 (1941). That is because "[t]he function of a personal injury award for general damages is to make the injured person whole by serving as the monetary equivalent of the harm suffered." *Bailey*, 84 B.R. at 610.

The Minnesota legislature, and the supreme court in *Medill*, put such property "beyond the reach of creditors" for good reason. Appellant simply asks that this court hold that it remain so.

CONCLUSION

WHEREFOR, Appellant respectfully requests that this court reverse the June 21, 2010 Order of the trial court and hold as a matter of law that Appellant's funds at issue are exempt from garnishment or levy.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Kemp', written over the printed name.

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Dated: September 3, 2010

STATE OF MINNESOTA
IN COURT OF APPEALS

MIDLANDS CREDIT MANAGEMENT
Respondent

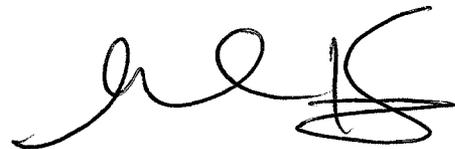
v.

COURT OF APPEALS NO.: A10-1241

ELDRIDGE CHATMAN
Appellant

Pursuant to Minn. R. App. P 132.01 subd. 3, I hereby certify that this brief was prepared for submission using Microsoft Word 2007, that it complies with the typeface requirements of the Rule, and that it contains 3,372 words.

Respectfully submitted,



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Dated: September 3, 2010