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Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

**KAREN M. HANSON,** )  
 )  
 ) *Plaintiff,* )  
 vs. )  
 )  
 ) **STEPHEN A. NOVOTNY, et al,** )  
 )  
 ) *Defendants.* )  
 \_\_\_\_\_ )

Case No. **CV 2008 3520**

**MEMORANDUM DECISION AND  
ORDER SUSTAINING HANSON'S  
OBJECTION TO NOVOTNYS'  
SATISFACTION OF JUDGMENT**

**I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.**

This matter is before the Court on the "Objection to Defendants' Satisfaction of Judgment" filed by plaintiff Karen M. Hanson (Hanson) on June 16, 2010. On May 25, 2010, defendants Steven A. Novotny, Bruce P. Novotny and Christine C. Novotny (Novotnys) filed a Satisfaction of Judgment. The "Judgment" was prepared by Hanson's attorney and was signed by this Court and filed on May 19, 2010. The Judgment was a result of an Offer of Judgment being made by Novotnys in the amount of \$16,813.00 on May 5, 2010, to which Hanson filed her Notice of Acceptance of Offer of Judgment on May 14, 2010.

Hanson filed her Complaint on May 2, 2008, as a result of damages she suffered in a May 20, 2006, automobile accident involving a car driven by Stephen Novotny and owned by Bruce and Christine Novotny. Mediation occurred in this case on May 5, 2010. On May 5, 2010, pursuant to I.R.C.P. 68, Novotnys filed an Offer of Judgment "in the amount of Sixteen Thousand Eight Hundred and Thirteen Dollars and 00/100

(\$16,813.00), inclusive, as to the claims brought by the Plaintiff.” Offer of Judgment, p.

1. On May 14, 2010, Hanson accepted the Rule 68 Offer of Judgment submitted by Novotnys on May 5, 2010. This Court entered Judgment in favor of Hanson against Novotnys on May 19, 2010.

On May 25, 2010, Defendants filed a Satisfaction of Judgment. Hanson objected to the filing of the Satisfaction of Judgment, arguing only Hanson may file such a satisfaction of judgment and the Judgment here has not been satisfied because Novotnys improperly directed payment to third parties. Objection to Defendants’ Satisfaction of judgment, pp. 1-2. Hanson states:

Allstate, Defendants’ surety, issued a check in the amount of \$5,000 payable to Farmer’s Insurance Co. only. Allstate issued a second check in the amount of \$11,813, to Healthcare Recoveries and Plaintiff. These payments were not mentioned in the Offer of Judgment. Defendant has not paid Plaintiff the Judgment. Therefore the Judgment has not been satisfied.

*Id.*, p. 2. Novotnys argue the “inclusive” language in the Offer of Judgment means Hanson therefore acknowledged the Offer of Judgment included liens. Defendant’s Response to Plaintiff’s Objection, p. 3. Counsel for Novotnys also states he attempted on numerous occasions to discuss the payment of the liens with counsel for Hanson.

*Id.* Novotnys argue that the payment was structured in the manner chosen by Novotnys’ attorney because Hanson failed to respond regarding the liens, and that the Farmer’s (Hanson’s carrier) lien had to be satisfied by either Allstate (Novotnys’ carrier) or Hanson herself, and Healthcare Recovery (Hanson’s health insurance carrier) had placed Novotnys and their carrier Allstate on notice of Healthcare Recovery’s lien. *Id.* Novotnys state they offered to accept a release enabling Hanson’s counsel to negotiate directly with Healthcare Recovery, but were met with silence from Hanson. *Id.*; see also Affidavit of Michael L. Haman.

Oral argument on Hanson's "Objection to Defendants' Satisfaction of Judgment" was held on August 24, 2010.

## II. ANALYSIS.

Idaho Rule of Civil Procedure 68 provides a party defending a claim may make an offer to allow judgment to be taken against it for the money, property, or effect specified in the offer at least fourteen days before trial. I.R.C.P. 68. Here, a four-day jury trial was scheduled for May 25, 2010. The Offer of Judgment was filed on May 5, 2010, twenty days before trial. Hanson accepted the Offer on May 14, 2010, and this Court entered Judgment against Novotnys. Rule 58(b) reads:

Upon full payment of a judgment, the party in whose favor the judgment was rendered shall have the duty to record a satisfaction of judgment in every county where the judgment or abstract of the judgment is recorded and to file in the court of entry. A satisfaction of judgment may be signed by the attorney of a party in whose favor the judgment was entered.

I.R.C.P. 58(b). Idaho law does not make provisions for the party *against whom judgment is entered* to file a Satisfaction of Judgment within the meaning of the Rules. In fact, in *Boller v. Sun Valley Shamrock Resources, Inc.*, 119 Idaho 1060, 812 P.2d 1221 (Ct.App. 1990), the Court of Appeals held it was error for the lower Court to have denied the appellants' motion to compel the recording of a full satisfaction of the judgment as required by I.R.C.P. 58(b). 119 Idaho 1060, 1063, 812 P.2d 1221, 1224. In *McPheters v. Maile*, 138 Idaho 391, 64 P.3d 317 (2003), the Idaho Supreme Court held a judgment creditor breached their duty to McPheters by failing to record a satisfaction of judgment where the record reflected full payment of the Judgment. 138 Idaho 391, 395-96; 64 P.3d 317,321-22. It follows that a party against whom judgment is rendered cannot file a Satisfaction of Judgment pursuant to I.R.C.P. 58(b). The plain language of I.R.C.P. 58 creates the duty of the party in whose favor judgment is entered

to file a Satisfaction of Judgment, and this is further supported by that rule permitting not only the signature of the party in whose favor judgment is entered upon the Satisfaction of Judgment, but also that individual's attorney. Idaho case law provides that where the party with this duty fails to record the satisfaction once judgment is paid in full, the opposing party may seek relief through a motion to compel the recording of a full satisfaction. *Boller*, 119 Idaho 1060, 1063, 812 P.2d 1221, 1224.

Here, there appear to remain questions of fact with regard to whether the judgment was paid in full at all. The amount offered and agreed to by Hanson was \$16,813.00. Of that amount, \$5,000.00 of this amount was paid directly to Farmer's and the remaining \$11,813.00 was made in a check payable to both Healthcare Recovery and Hanson. In his affidavit, counsel for Novotnys sets forth his efforts to communicate with counsel for Hanson and resolve lien issues. Novotnys used the "inclusive" language in their Offer of Judgment to indicate the amount would include liens/subrogation amounts to Healthcare Recovery and Farmer's. On the other hand, Hanson argues the amount ultimately received, \$11,813.00, was not the amount offered by Novotnys and accepted by Hanson. Attorneys for Hanson and the Novotnys devoted most of the briefing and nearly all oral argument to the issue of whether Novotnys insurance company Allstate can or cannot unilaterally pay Farmers directly and whether Allstate can unilaterally make a check payable to both Healthcare Recovery and Hanson, and then file a Satisfaction of Judgment.

In any event, this Court finds the procedure for filing a satisfaction of judgment was not properly followed by Novotnys here. To the extent the amount owing was fully satisfied, Idaho case law is clear that Novotnys would need to seek the relief they pray for via a motion to compel the recording of a Satisfaction of Judgment by Hanson. That

motion to compel will have to determine: 1) whether Novotnys' insurance company Allstate can or cannot unilaterally pay Farmers directly and whether Allstate can unilaterally make a check payable to both Healthcare Recovery and Hanson; and 2) depending on the answer to that first question, whether Novotnys can compel the recording of a different Satisfaction of Judgment. Since Novotnys utilized an incorrect procedure, the Satisfaction of Judgment is void *ab initio*. The filing of the Satisfaction of Judgment is illegal and has no effect. Since the Satisfaction of Judgment has at all times been void, the timing of Hanson's objection is immaterial. In any event, that timing is briefly discussed as follows.

Novotnys also take the position that any objection by Hanson to the filing of Novotnys' Satisfaction of Judgment was untimely as such objection came more than fourteen days after filing of the Satisfaction. Defendants' Response to Plaintiff's Objection, p. 4. Novotnys take the position that I.R.C.P. 11(a)(2) and/or I.R.C.P. 59(e) apply to make Hanson's filing of her objection untimely under the Rules. *Id.* Idaho Rule of Civil Procedure 11(a)(2)(B) requires motions for reconsideration of any final judgment entered to be made no more than fourteen days after entry of judgment, and I.R.C.P. 59(e) requires a motion to alter or amend a judgment to be made within fourteen days after entry of the judgment. Here, Judgment was entered by this Court on May 19, 2010. On June 16, 2010, nearly one month later, Hanson filed her objection. In any event, I.R.C.P. is applicable given these facts. "...The Court at every stage of the proceedings must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties." I.R.C.P. 61. Counsel for Novotnys was asked at the hearing what prejudice his clients experienced as a result of the timing of Hanson's objection. No prejudice was articulated. Absent Novotnys being able to demonstrate

prejudice resulting from Hanson's filing her objection two weeks late, (which is unlikely given the question remaining as to whether there has been full satisfaction), this Court disregards any untimely filing.

**III. CONCLUSION AND ORDER.**

For the reasons stated above, Hanson's "Objection to Defendants' Satisfaction of Judgment" is sustained, Novotnys' Satisfaction of Judgment is void *ab initio*, has at all times had no effect, is stricken (but lodged in the file to preserve the record) and Novotnys are ordered to never record a copy of the same.

Entered this 27<sup>th</sup> day of August, 2010.

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John T. Mitchell, District Judge

**Certificate of Service**

I certify that on the \_\_\_\_\_ day of August, 2010, a true copy of the foregoing was mailed postage prepaid or was sent by interoffice mail or facsimile to each of the following:

**Lawyer**  
Scott A. Gingras

**Fax #**  
664-1684

| **Lawyer**  
Michael L. Haman

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Jeanne Clausen, Deputy Clerk