

ELAINE HELSTROM

v.

NUEL STROHEKER

Submitted on Briefs February 28, 2008
Decided March 13, 2008

Panel: CLIFFORD, ALEXANDER, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Nuel Stroheker appeals from a May 30, 2007, judgment entered in District Court (York, *Stavros, J.*), ordering Vanguard Group, Inc. to turn over sums in its accounts held in Stroheker's name to Elaine Helstrom. Stroheker argues the court erred by failing to exempt \$15,000 from his independent retirement account, as required by 14 M.R.S. § 4422(13)(F) (2007). Helstrom cross-appeals, arguing (1) the order appealed from is interlocutory; (2) the appeal is moot; and (3) Stroheker and his attorney should be sanctioned, pursuant to M.R. App. P. 13(f), for filing a frivolous appeal. Contrary to Helstrom's contentions, the appeal (1) is not interlocutory, *see Bruesewitz v. Grant*, 2007 ME 13, ¶ 8, 912 A.2d 1255,

1258; (2) is not moot, *see FPL Energy Me. Hydro LLC v. Dep't of Env'tl. Prot.*, 2007 ME 97, ¶ 20 n.8, 926 A.2d 1197, 1202-03; and (3) does not call for sanctions, *see St. Hilaire v. St. Hilaire*, 2004 ME 13, ¶ 6, 841 A.2d 783, 784. Although the court erred by failing to recognize the \$15,000 exemption in its May 30, 2007, order, *see* 14 M.R.S. § 4422(13)(F), the court (York, *Douglas, J.*) recognized this mistake in an October 11, 2007, order, issued while this appeal was pending. The October 11, 2007, order appropriately recognized that 14 M.R.S. § 4422(13)(F) exempts \$15,000 of Stroheker's retirement account from attachment and ordered Vanguard Group, Inc. to turn over only non-exempt funds.

The entry is:

The judgment of the District Court is modified by (1) replacing the finding that Stroheker's Vanguard accounts are subject to attachment and not otherwise exempt with the finding that, pursuant to 14 M.R.S. § 4422(13)(F), \$15,000 of Stroheker's retirement account funds are exempt from attachment, and (2) ordering turnover of the sum of \$46,079.15, less \$15,000, totaling \$31,079.15 to be turned over. As modified, judgment affirmed.

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