

STATE OF MAINE  
SUPEREME JUDICIAL COURT  
SITTING AS THE LAW COURT

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Law Court Docket No. BCD-25-193

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JOHN VENEZIANO,

Appellee,

v.

BERNARD SAULNIER,

Appellant.

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ON APPEAL FROM THE BUSINESS AND CONSUMER COURT  
DOCKET NO. MNJ-2022-1 AND CV-2019-35  
(CUMBERLAND)

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**BRIEF OF APPELLANT BERNARD SAULNIER**

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## Summary of Case

This is a matter in which the Business and Consumer Docket (“Business Court”) granted Appellee and judgment creditor, John Veneziano, an Order compelling Appellant and judgment debtor, Bernard Saulnier (Defendant/Appellant), to make installment payments towards a judgment based upon imputed, not actual, income.

On February 11, 2025, the Business Court held a disclosure hearing pursuant to the Enforcement of Money Judgments Act, 14 M.R.S. §§ 3120-3138 (2025) (the “Enforcement of Money Judgments Act” or the “Act”) at which both Veneziano and Saulnier appeared with counsel. After the record closed, the Business Court made findings related to Saulnier, including that Saulnier has skills as a real estate developer and *could* earn \$350,000.00 per year. The Business Court found that Saulnier was actually earning \$40,000.00 annually. The Business Court then imputed income to Saulnier in the amount of \$350,000.00 annually and ordered Saulnier to make installment payments based thereon.

The Court stated that under 14 M.R.S. § 3126-A (3):

In determining the amount of installment payments, the Court may take into consideration the amount of money or earnings being or to be received, and any other factors the court considers material and relevant. 14 M.R.S. § 3126-A (4) (E & F).

App. 12

The Business Court interpreted the provision of “any other factors the court considers material and relevant” (14 M.R.S. § 3126-A (4) (E & F)) to authorize the imputation of income to Saulnier. *Id.* The Business Court then deducted amounts for taxes and withholding and calculated disposable earnings of \$210,000 per year. From this figure, applying the 25% garnishment limit, the Business Court directed Saulnier to make weekly payments to Veneziano of \$1,009.00. *Id.*

The Enforcement of Money Judgments Act establishes a procedure for enforcing money judgments. Under 14 M.R.S. § 3121, the Act authorizes a court following a disclosure hearing to determine the installment payments a judgment debtor must pay to a judgment creditor. 14 M.R.S. § 3126-A governs the calculation of such payments, asserting that the maximum amount of earnings subject to an installment order for any workweek must not exceed 25% of the sum of disposable earnings and exempt income for that week.

While 14 M.R.S. § 3126-A (4)(F) allows a court to consider “factors” such as the debtor's anticipated earnings or any other material and relevant information while determining installment payments, the Business Court's decision to impute income contravenes the controlling statute. The Act does *not* authorize the imputation of income against a judgment debtor. Specifically, 14 M.R.S. § 3126-A (3) delineates the permissible limits for installment payment orders:

- Twenty-five percent: The maximum amount of earnings subject to an installment payment order may not exceed 25% of the judgment debtor's disposable earnings and exempt income for the given week.
- Minimum wage threshold: Alternatively, the amount must not exceed the sum of disposable earnings and exempt income less 40 times the prevailing minimum hourly wage, whether federal or state, as prescribed by 29 United States Code, Section 206(a)(1) or Title 26, section 664.

Respectfully, the Business Court lacked the authority to impute income to the Appellant and in doing so, committed error.

**Statement of Issues Presented for Review**

Did the Business Court have the authority to impute income to the Appellant under the Maine Enforcement of Money Judgment Acts?

**Summary of the Argument**

The Business Court lacked the authority to impute income under the Maine Enforcement of Money Judgments Act.

There is nothing in the Enforcement of Money Judgments Act (or any other statute or common law holding) that authorizes a court to impute income to a judgment debtor. In Maine, only the child support statute, 19-A M.R.S. §2001 (5)(d) (2025), authorizes the imputation of income to a party.

14 M.R.S. § 3126-A (3) of the Enforcement of Money Judgments Act makes no provision for a court to impute income to a judgment debtor. The Act provides:

3. Maximum amount of earnings subject to installment payment order. In the case of a judgment debtor who is an individual, the maximum amount of earnings for any workweek that is subject to an installment order may not exceed the least of:
  - A. Twenty-five percent of the sum of the judgment debtor's disposable earnings and exempt income for that week;
  - B. The amount by which the sum of disposable earnings and exempt income for that week exceeds 40 times the minimum hourly wage prescribed by 29 United States Code, Section 206(a)(1) or the state minimum hourly wage prescribed by Title 26, section 664, whichever is higher at the time the earnings are payable; or
  - C. The total amount of disposable earnings.

14 M.R.S. § 3126-A (4) delineates the factors to consider in determining the amount of an installment payment order. In determining the amount of installment payments, the court may take into consideration:

- A. The reasonable requirements of the judgment debtor and the judgment debtor's dependents;
- B. Any payments the judgment debtor is required to make to satisfy other judgment orders or wage assignments;
- C. Other judgment orders or wage assignments that have priority
- D. The amount due on the judgment;
- E. The amount of money or earnings being or to be received;
- F. Any other factors the court considers material and relevant.

There is only one statute in Maine that permits imputation of income, and that is for child support, 19-A MRS §2001(5)(D). The child support statute uniquely authorizes a court to consider as gross income “the difference between the amount a party is earning and that party's earning capacity when the party voluntarily becomes or remains unemployed or underemployed, if sufficient evidence is introduced concerning a party's current earning capacity.” *Id.* Other than the child support statute, no other Maine statute can be found that authorizes the imputation of income

### **ISSUE PRESENTED**

May a court impute income to a judgment debtor under the Enforcement of Money Judgments Act, 14 M.R.S. §§ 3120-3138.

### **ARGUMENT**

#### **The Business Court lacked authority to impute income to the Appellant**

- 1. There is neither statutory authority nor case law that authorizes a court to impute income to a judgment debtor**

#### **Standard of Review**

This case involves the interpretation of the Enforcement of Money Judgments Act, 14 M.R.S. §3126-A(4)(F). In this context, the Law Court's review is *de novo*.

The interpretation of a statute is a question of law, which we review *de novo*. We will construe a statute based on its plain meaning in the context of the statutory scheme, and only if the statute is ambiguous will we look to extrinsic indicia of legislative intent such as relevant legislative history. In construing the plain meaning of the language, we

seek to give effect to the legislative intent and construe the language to avoid absurd, illogical, or inconsistent results. All words in a statute are to be given meaning, and none are to be treated as surplusage if they can be reasonably construed.

*State v. Ray*, 2025 ME 29, ¶ 5, 334 A.3d 663 (quoting *Strout v. Cent. Me. Med. Ctr.*, 2014 ME 77, ¶ 10, 94 A.3d 786; *State v. Santerre*, 2023 ME 63, ¶ 9, 301 A.3d 1244).

### **The Business Court erred by imputing income to the Appellant**

The Enforcement of Money Judgments Act, 14 M.R.S. 3121 *et seq.*, provides a procedure for the enforcement of money judgments. In the instant case, the Business Court misapplied the Act and, in particular, Section 3126-A(4)(F). The Court used Section 3126-A(4)(F) to impute income to the judgement debtor, Appellant, in the same manner as a court might do in computing child support.

Pursuant to 14 M.R.S. § 3126-A, after a disclosure hearing, a court is authorized to determine the amount, if any, for installment payments that a judgment debtor must make to a judgment creditor. App. 12

The Business Court went through the mechanics of determining the maximum amount of earnings that is subject to an installment order, stating:

under the circumstances of this case, the maximum amount of earnings for any workweek that is subject to an installment order may not exceed 25% of the sum of the judgment debtor's disposable earnings and exempt income for that week. In determining the amount of installment payments, the Court may take into consideration the amount of money or earnings *being or to be received*, and *any other factors the court considers material and relevant*.

App. 12 (citing 14 M.R.S. § 3126-A (3); 14 M.R.S. § 3126-A (4) (E & F)) (internal citations and quotation marks omitted) (emphasis added).

The Business Court concluded that Appellant *could* be making over \$350,000.00 per year. *Id.* The Business Court concluded that it had the authority to impute income under Section F of the Act. The Business Court then entered an installment order directing Appellant to pay \$1,050.00 per week based upon imputed income of \$350,000.00. *Id.*

The Enforcement of Money Judgments Act sets forth the limits that control a court's order of installment payments by a judgment debtor. While 14 M.R.S. § 3126-A (4) permits a court to consider factors such as the debtor's "anticipated earnings" or other "material and relevant information" while determining installment payments, the Business Court's decision to *impute* an amount for income that is not being actually earned exceeds the limits set by the Act.

The Act does *not* authorize the imputation of income against a judgment debtor. Taking the Business Court's analysis to its logical conclusion, courts if permitted to impute income could order retired persons to pay a judgment creditor at levels of income the judgment debtor enjoyed before retirement, a forced return to the workforce scenario. The Legislature clearly did not authorize that and if the Legislature had intended to do so it clearly knew what language to include in the Act to accomplish that result. *See* 19-A M.R.S. §2001(5)(D) (authorizing the imputation

of income in the context of calculating child support). Indeed, the Legislature did just the opposite by limiting the installment payment to 25% of the judgment debtor's disposable earnings and exempt income for the given week.

14 M.R.S. § 3126-A (3) delineates the permissible limits for installment payment orders:

- Twenty-five percent: The maximum amount of earnings subject to an installment payment order *may not exceed 25% of the judgment debtor's disposable earnings and exempt income for the given week.* (Emphasis added.)
- Minimum wage threshold: Alternatively, the amount must not exceed the sum of disposable earnings and exempt income less 40 times the prevailing minimum hourly wage, whether federal or state, as prescribed by 29 United States Code, Section 206(a)(1) or Title 26, § 664.

Respectfully, there is nothing in Section 3126-A (3) that empowers a court to exceed the limits established by this section or to create a new source of income subject to an installment order, such as imputed income. The statute is express – the court may set installment payments for 25% of the judgment debtor's disposable earnings and exempt income for a given week. There is no exception in the statute for imputed income.

14 M.R.S. § 3121(1) and (2) limit by definition those earnings of a debtor that are subject to garnishment. The statute provides:

1. Earnings. “Earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commissions, bonuses or otherwise, and includes periodic payments pursuant to a pension or retirement program.
2. Disposable earnings. “Disposable earnings” means that part of the earnings of any judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

The statute itself limits the definition of “earnings” and “disposable earnings” to that compensation “paid” or “payable”, limiting the amounts that are subject to an installment order to those which are actually received or actually due after deduction for amounts required by law to be withheld. The Statute makes no reference to earnings that a judgment debtor *should* or *could* earn. The Statute does not add “imputed income” to the list of earnings subject to a garnishment order. And while “earnings” and “disposable earnings” are defined under the Act, imputed income is absent and not defined. The Act solely applied to actual income and actual earnings, from which “disposable earnings” are not derived.

Expanding the Enforcement of Judgments Act to include “imputed income” was not authorized by the Legislature.

While Section 3126-A(4)(F) permits a court to consider “any other factors that the court considers material and relevant”, the section does not authorize a court to impute what a court thinks potential income *could* be. Such an interpretation would permit courts to order people to work and dictate what they do for work: “well ... you

could earn more than you earn now, right, if you worked for a different company, chose a different position or career, worked out of state..." etc.

The only Maine law that authorizes imputed income is the child support statute, 19-A M.R.S.A. §2001 (5)(d) and the accompanying Maine Child Support Enforcement Manual, 10-144 C.M.R. Ch. 351 § (7)(1) (2016).

Imputing income under the child support statute is not a simple determination. In interpreting 19-A M.R.S. §2001 (5)(D) the Law Court in *Wrenn v. Lewis* stated:

Maine's child support and spousal support statutes recognize the propriety of determining an individual's ability to pay support based upon an evaluation of her or his "earning capacity" or "income potential." See 19-A M.R.S.A. § 2001(5)(D) (1998) ("Gross income [for purposes of determining child support may include the difference between the amount a party is earning and that party's earning capacity when the party voluntarily becomes or remains unemployed or underemployed, if sufficient evidence is introduced concerning a party's current earning capacity."); 19-A M.R.S.A. § 951-A(5)(B), (D), (E) (Supp. 2002) ("The court shall consider, [among other things, the following factors when determining an award of spousal support; . . . the ability of each party to pay; . . . the employment history and employment potential of each party; . . . [and the income history and income potential of each party . . . ."). A person's earning or income potential is a product of a variety of factors, including that person's qualifications, income history, and the earning or income opportunities that are reasonably available to that person.

2003 ME 29, ¶ 18, 818 A.2d 1005.

The Maine Child Support Enforcement Manual contains lengthy and detailed sections dealing with imputed income and how a court makes determinations. *See*

10-144 C.M.R. Ch. 351 § (7)(1). Sections 1 (B) and (C) give explicit instructions to a court on the steps to follow in imputing income:

- B. When imputing income, the Department will take into consideration the noncustodial parent's subsistence needs (as defined in Section 3, below) and ensure that the amount ordered for support is based upon available data related to the parent's actual earnings, income, assets, or other evidence of ability to pay, such as testimony that reported income or assets are not consistent with a noncustodial parent's current standard of living.
- C. The Division shall have the right to assert that the responsible parent is voluntarily unemployed or voluntarily underemployed, and to present evidence to support such assertion. Evidence to support this assertion must meet the requirements and criteria of sub-sections (A) and (B), above. If the Division makes and presents evidence in support of such an assertion, a request by the responsible parent for a continuance to enable him or her to rebut the Division's evidence on this issue shall be granted.

Paragraph 1 (A) of this Chapter states:

- A. Therefore, imputation of income pursuant to 19-A M.R.S. §2001(5)(D) shall not be made except upon the basis of evidence in the record as to those factors which, in the circumstances of the parent, constitute his or her effective earning capability. Such factors may include, but are not limited to:
  - 1. prevailing work-availability conditions of the job market within the commuting range of the parent's residence, or of a residence to which he might reasonably be expected to move for the purpose of supporting his or her children;
  - 2. training and education of the parent;
  - 3. prior employment history of the parent;
  - 4. actual availability of the parent for employment.

Such detailed information, instructions and guidelines are in place due to the draconian nature of a finding and imposition of “imputed income”, along with the fact that imputed income is justified and based upon the best interests of the child, as outlined in 19-A M.R.S. § 1653 (2025). Determination of the “best interests of the child” is based on an extensive analyzation of nineteen different factors the procedure for which is extensively enumerated. *Id.*

No similar guidance and authority exist in the Enforcement of Money Judgments Act. There is no “Best Interests of the Creditor” doctrine, nor is there a requirement for a debtor or a court to act in the best interests of the creditor.

## **CONCLUSION**

The Enforcement of Money Judgments Act does not authorize imputation of income. The Business Court incorrectly imputed income to Appellant.

DATED in Portland, Maine on the \_\_\_\_<sup>th</sup> day of September 2025,

Respectfully Submitted,  
Bernard Saulnier,  
By counsel,

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### **CERTIFICATE OF SERVICE**

I hereby certify that on September \_\_\_, 2025 I served true copies of the above Appellant's Brief and Appendix, by providing electronic copies and paper copies to Appellee's Counsel:

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