

Exhibit A

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM POREMBA,
Appellant,
vs.
SOUTHERN NEVADA PAVING; AND
S&C CLAIMS SERVICES, INC.,
Respondents.

No. 66888

FILED

APR 07 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

Appeal from a district court order denying a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge.

Reversed and remanded with instructions.

Dunkley Law and Mark G. Losee and Matthew S. Dunkley, Henderson, for Appellant.

Lewis Brisbois Bisgaard & Smith, LLP, and Daniel L. Schwartz and Jeanne P. Bawa, Las Vegas, for Respondents.

BEFORE DOUGLAS, CHERRY and GIBBONS, JJ.

OPINION

By the Court, CHERRY, J.:

NRS 616C.215(2)(a) provides that when an injured employee who receives workers' compensation also recovers damages from the responsible party, the amount of workers' compensation benefits must be reduced by the amount of the damages recovered. We held in *Employers Insurance Co. of Nevada v. Chandler*, 117 Nev. 421, 23 P.3d 255 (2001), that an insurer may refuse to pay additional funds via reopening a

workers' compensation claim until the claimant demonstrates that he or she has exhausted any third-party settlement funds and that medical expenses are considered to be compensation that an insurer may withhold until the recovery amount has been exhausted.

In this appeal, we clarify that while a claimant *may* exhaust his or her settlement funds on medical benefits, he or she is not restricted to using settlement funds on medical benefits. Although workers' compensation funds may only be spent on specific expenses, such as medical treatment, Nevada law does not preclude settlement funds from being used to cover typical household expenses.

FACTS AND PROCEDURAL HISTORY

Appellant William Poremba worked for respondent Southern Nevada Paving as a construction driver. On July 22, 2005, in the course of his duty, Poremba was driving a truck when another driver struck the truck with his backhoe. Poremba suffered injuries to his head, neck, back, and knee. Poremba filed a workers' compensation claim, which Southern Nevada Paving, through respondent S&C Claims (collectively S&C), accepted. S&C eventually closed the claim, sending Poremba a letter with instructions on how to reopen the claim should his condition worsen.

Poremba also sued the backhoe driver and his employer. That lawsuit was settled on July 30, 2009, for \$63,500, with a significant amount of that settlement paid directly to cover health-care providers' liens. Poremba personally received \$34,631.51. He spent approximately \$14,000 of the money he received on additional medical treatment. Poremba claims to have spent the remaining settlement money on personal living expenses, such as mortgage payments and food for his family.

Electronically Filed
Apr 13 2016 03:46 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

