STATE OF MICHIGAN

COURT OF APPEALS

CORELL BRYANT, Plaintiff-Appellant,	UNPUBLISHED November 16, 2017
v	No. 335544 Wayne Circuit Court
HORATIO WILLIAMS and HATTIE WILLIAMS-FIELDS, Defendants-Appellees.	LC No. 15-012567-CZ

Before: MURRAY, P.J., and FORT HOOD and GLEICHER, JJ.

PER CURIAM.

Plaintiff Corell Bryant appeals as of right the trial court's order granting summary disposition in favor of defendants[1] Horatio Williams and Hattie Williams-Fields in this action requiring the interpretation of the Uniform Voidable Transactions Act (the Act), MCL 566.31 *et seq*.[2] We reverse and remand for proceedings consistent with this opinion.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

Plaintiff is a former employee of On Time Transportation Inc., (On Time Transportation) a corporation of which defendant Horatio Williams ("Williams") is an officer.[3] On January 22, 1996, plaintiff was injured while working for On Time Transportation, and on February 19, 1999, the Workers' Compensation Board of Magistrates issued an opinion concluding that plaintiff was entitled to an open award of benefits of $174.89 a week. Because On Time Transportation did not have insurance to pay plaintiff's award, plaintiff subsequently initiated suit in Case No. 99-928033-CZ in the Wayne Circuit Court on September 3, 1999 to obtain a

[1] The trial court also denied plaintiff's counter motion for summary disposition.

[2] The Act was formerly known as the Michigan Fraudulent Conveyance Act.

[3] Documents filed with the Michigan Department of Energy, Labor and Economic Growth confirm that as of February 18, 2011, Williams was the President of On Time Transportation.

judgment commensurate with the Board of Magistrates' award.[4] The Wayne Circuit Court entered a judgment against On Time Transportation on December 17, 1999, in the amount of $42,445.80. On November 4, 2004, plaintiff filed a request and order to seize the property of On Time Transportation. On that date, the judgment was valued at $94,059.09. It does not appear from the record that plaintiff was successful in seizing any property of On Time Transportation.

On October 18, 2010, Williams entered into a purchase agreement with Nonprofit Finance Fund to purchase property located at 1010 Antietam in Detroit, Michigan. On February 16, 2011, Nonprofit Finance Fund conveyed property located at 1010 and 1235 Antietam (the Antietam property) to Hattie Williams-Fields (Williams-Fields), the mother of Williams, for the sum of $75,000. In a second purchase agreement addendum dated February 22, 2011, Williams and Nonprofit Finance Fund agreed that Williams's interest in the property would be transferred to Williams-Fields. While not pertinent to this appeal, the record reflects that on March 6, 2010, Williams-Fields filed for bankruptcy. Williams filed for bankruptcy on December 8, 2014.

On September 28, 2015, plaintiff filed the instant action, styling his complaint as one to set aside a fraudulent conveyance. In the complaint, plaintiff alleged that where he was unable to collect against On Time Transportation, Williams, as an officer of the corporation, was personally liable for the unsatisfied judgment. In support of this allegation, plaintiff pointed to MCL 418.647, a statutory provision that will be addressed in more detail subsequently in this opinion. Relying on MCL 418.467, plaintiff further alleged that where he had unsuccessfully sought to execute the judgment against On Time Corporation on November 5, 2004, Williams became personally liable at that time. Plaintiff sought a judgment against both Williams and Williams-Fields, asserting that the transfer of the Antietam property was fraudulent and violated the Act.

As relevant to this appeal, on November 18, 2015, defendants, at that time represented by counsel, moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), asserting that plaintiff was unable to establish a violation of the Act where Williams was not a debtor and plaintiff was not a creditor when the Antietam property was purchased. In support of their argument, defendants contended that "[p]laintiff knows or should know that plaintiff was a creditor only to defendant On Time Transportation in 2011. Horatio Williams did not become a defendant [in Case No. 99-928033-CZ] (and more importantly a debtor to creditor plaintiff) [sic] until 2014." Defendants further noted that the trial court did not enter an order holding Williams to be personally liable to plaintiff until September 22, 2014. Defendants also contended that "[the trial court] speaks through its written orders[,]" and where plaintiff did not meet the definition of "creditor" and Williams was not a "debtor" as contemplated by the Act, plaintiff had failed to set forth a claim on which relief could be granted. Defendants also argued that genuine issues of material fact did not exist concerning whether plaintiff was a creditor and Williams was a debtor as set forth in the Act.

[4] MCL 418.863 provides a mechanism for a party to obtain a judgment from the circuit court following an award of worker's compensation benefits that remain unpaid.

Plaintiff filed a response to defendants' motion, and also filed a cross-motion for summary disposition pursuant to MCR 2.116(C)(I)(2).[5] As relevant to this appeal, plaintiff argued that, as contemplated by the Act, he had a claim against defendants, and Williams was a debtor. Specifically, plaintiff countered defendants' contention that any claim he had against Williams as an officer of the corporation was required to be reduced to judgment before Williams could be held personally liable. According to plaintiff, Williams's personal liability became "mandatory and automatic[ ]" pursuant to MCL 418.647 when the writ of execution against the corporation was left unsatisfied in November of 2004. In sum, plaintiff asserted that the transfer of the Antietam property in 2011 amounted to a fraudulent conveyance in contravention of the Act.

After hearing oral argument from counsel for both parties at a hearing held on April 26, 2016, the trial court took the matter under advisement, ruling from the bench during a subsequent hearing on June 16, 2016. Specifically, the trial court ruled, in pertinent part, as follows:

> [Defendant Williams's][6] second argument is Plaintiff has failed to state a claim upon which relief can be granted. Defendant argues the liability did not attach to Defendant until the 2014 order of this Court because the alleged fraudulent conveyance took place in 2011.
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> Plaintiff's claim fails as a matter of law.
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> [Defendant Williams] cites case law for the proposition that a conveyance validly made cannot be invalidated by subsequent acts of the grantor by creation of subsequent debts. [Williams] cites case law of [*Page v Kendrick*, 10 Mich 300 (1862).]
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> Defendant [Williams] argues that Defendant [Williams] was not indebted to Plaintiff in 2011. The Court did not order [that] the Defendant [Williams] was liable for judgment against One [sic] Time Transportation, Inc. until September 19th, 2014,[7] more than three years after the conveyance occurred.
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> Plaintiff responded that Defendant Williams's liability occurred as early as 2004 within [sic] the execution of judgment was returned unsatisfied.

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[5] MCR 2.116(I)(2) provides that "[i]f it appears to the court that the opposing party, rather than the moving party, is entitled to judgment, the court may render judgment in favor of the opposing party."

[6] While the trial court continually referred to defendant Williams, the motion for summary disposition was filed on behalf of both defendants. While Williams-Fields had initially been defaulted, that default was set aside by the trial court.

[7] The judgment was actually entered in the trial court in Case No. 99-928033-CZ on September 22, 2014.

And under the Uniform Fraudulent Transfer Act, Plaintiff is defined [sic] has a right to payment whether or not the right is reduced to a judgment.

Therefore the claim, Plaintiff argues the claim against Horatio Williams existed in 2004, before the transfer of the property in 2011.

* * *

Defendant [Williams] also, Defendant also argues in [the] motion for summary disposition that . . . Defendant [Williams] is, or Defendants are entitled to summary disposition because no genuine issue of material fact exists.

A judgment was entered against On Time Transportation, Inc. in 1999. Mr. Williams's transfer was stayed [sic] in 2011. Mr. Williams was not a debtor to Plaintiff before the transfer.

Mr. Williams did not become liable on Transportation's debt until 2014 by court order. So Defendant [Williams] argues that these facts are not disputed and [he] is entitled to a [sic] summary disposition as a matter of law.

Here the Plaintiff urges the Court to reject [Williams's] argument that there was no debt until the judgment against Defendant Williams was entered [in] 2014 and points to the language of the statute[,] [arguing that it] does not limit a claim that a creditor person has a claim, allegedly Plaintiff, has against the debtor and is the person who is liable on a claim, allegedly [Williams] to a legal judgment but rather broadly defines the claim to include generally a right to payment and specifically defines to limit that right to one reduced to a judgment.

The Court finds here that the Court made a determination [in Case No. 99-928033-CZ] that Defendant [Williams] was liable for the judgment against On Time Transportation on September 19th, 2014. That is when the Defendant, Horatio Williams[,] became liable for his best claim [sic] by order of the Court.

The transfer of real estate [at issue] occurred more than three years prior to this Court's determination. One moment. And Defendant [Williams] was not a debtor at that time.

Wherefore the Court grants [defendants'] motion for summary disposition because the [Plaintiff] has failed to state a claim upon which relief can be granted and there is no genuine issue of any material fact and the motion is granted.

Plaintiff's complaint in the 2015 case is dismissed. So the motion is granted in part for the reasons stated on the record.

There is also a motion for summary disposition . . . by the Plaintiff. That motion is moot given the Court's opinion and decision on [defendants'] motion for summary disposition. So that motion will be dismissed. [(footnotes added).]

Given its ruling, the trial court did not consider whether plaintiff had stated a valid claim or put forth evidence creating genuine issues of material fact concerning whether the transfer of the Antietam property was a fraudulent conveyance as contemplated by MCL 566.34 or MCL 566.35. As relevant to this appeal, the trial court's order granting defendants' motion for summary disposition on the basis that the Act did not apply, and denying plaintiff's motion for summary disposition, was entered August 16, 2016.[8]

Plaintiff filed a motion for reconsideration on September 6, 2016, asserting that the trial court erred in concluding that the Act was not applicable under the facts of this case. Plaintiff also argued that the transfer of the Antietam property violated MCL 566.34 and MCL 566.35. Plaintiff also challenged the trial court's determination that personal liability to Williams only attached by virtue of the judgment entered September 22, 2014. The trial court denied plaintiff's motion for reconsideration in an order entered October 27, 2016, concluding that plaintiff "merely presents the same issues ruled on by the Court." On November 4, 2016, plaintiff filed his claim of appeal.

II. STANDARD OF REVIEW

We review a trial court's decision regarding a motion for summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). As relevant to this appeal, defendants' motion for summary disposition was brought pursuant to MCR 2.116(C)(8) and (C)(10). As the trial court considered documentary evidence outside of the pleadings in rendering its decision, we review its ultimate determination pursuant to MCR 2.116(C)(10). *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

> A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10), (G)(4). *Quinto v Cross & Peters Co*, 451 Mich 358; 547 NW2d 314 (1996).

This case also "implicates questions of statutory construction, which we review de novo." *Vayda v Lake Co*, ___ Mich App ___, ___; ___ NW2d ___ (2017) (Docket No. 333495); slip op at 4.

> The role of [the Court of Appeals] in interpreting statutory language is to ascertain the legislative intent that may reasonably be inferred from the words in a statute. The focus of our analysis must be the statute's express language, which offers the most reliable evidence of the Legislature's intent. When the statutory

[8] Defendants had also argued that plaintiff's claims were barred by principles of res judicata and collateral estoppel, but the trial court denied summary disposition on those grounds and they are not at issue in this appeal.

> language is clear and unambiguous, judicial construction is not permitted and the statute is enforced as written. [*Covenant Med Ctr, Inc v State Farm Mut Auto Ins Co*, 500 Mich 191, 199; 895 NW2d 490 (2017) (quotation marks and citations omitted).]

III. ANALYSIS

On appeal, plaintiff argues that the trial court erred in granting defendants' motion for summary disposition. Specifically, plaintiff contends that the trial court erred in inserting language into MCL 418.647(2) requiring that a judgment be entered before personal liability will attach to the officers and directors of a corporation. Plaintiff also contends that the trial court erred in concluding that the Act did not apply to the transfer of the Antietam property. We agree.

Our analysis begins with the statutory language at issue. As an initial matter, MCL 418.647, part of the Worker's Disability Compensation Act (WDCA), MCL 418.101 *et seq*., provides as follows:

> (1) If compensation is awarded under this act against any employer who at the time of the injury has not complied with [MCL 418.611],[9] the employer shall not be entitled as to any judgment entered upon the award, to any of the exemptions of property from seizure and sale on execution allowed by statute.
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> (2) *If the employer is a corporation, the officers and directors of the corporation shall be individually and jointly and severally liable for any portion of the judgment returned unsatisfied after execution against the corporation*. If the employer is a limited liability company, the managers who are also members shall be individually and jointly and severally liable for any portion of the judgment returned unsatisfied after execution against the company. If the employer is a limited liability partnership, the partners shall be individually and jointly and severally liable for any portion of the judgment returned unsatisfied after execution against the partnership. [Emphasis added; footnote in original omitted; footnote added).]

This statutory provision, along with others in the WDCA, "establish[es] recourse for an employee if a carrier does not meet its obligations and ceases making payments in violation of an award [of worker's compensation benefits]." *Bailey v Oakwood Hosp & Med Ctr*, 472 Mich 685, 702; 698 NW2d 374 (2005). Additionally, the controlling definitions of the Act are set forth in MCL 566.31, and provide, in pertinent part, as follows:

> (c) "Claim", except as used in "claim for relief", means a right to payment, *whether or not the right is reduced to judgment*, liquidated, unliquidated, fixed,

[9] MCL 418.611 provides methods for an employer to secure the payment of worker's compensation benefits to its employees.

contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(d) "Creditor" means a person that has a claim.

(e) "Debt" means liability on a claim.

(f) "Debtor" means a person that is liable on a claim. [Emphasis supplied.][10]

MCL 566.34 further provides, in pertinent part, as follows:

(1) Except as otherwise provided in subsection (4), a transfer made or obligation incurred by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation in either of the following circumstances:

(a) With actual intent to hinder, delay, or defraud any creditor of the debtor.

(b) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor did either of the following:

(*i*) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.

(*ii*) Intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

Likewise, MCL 566.35 provides as follows:

(1) A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

(2) A transfer made by a debtor is voidable as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

[10] 2016 PA 552, effective April 10, 2017, altered some of the relevant language of MCL 566.31, but the statutory amendments are not dispositive in our analysis.

> (3) Subject to [MCL 566.32] a creditor making a claim for relief under subsection (1) or (2) has the burden of proving the elements of the claim for relief by a preponderance of the evidence. [Footnote omitted.][11]

Thus, this appeal requires us to address the interplay between MCL 418.647 and the Act. Put another way, where the WDCA provides that the officers and directors of a corporation are jointly and severally liable for the unsatisfied judgment entered against a corporation arising from the non-payment of worker's compensation benefits, we must decide whether, under the facts of this case, Williams was a debtor and plaintiff a creditor to the extent that the applicable provisions of the Act would apply to the transfer of the Antietam property. As noted above, the Act clearly defines a "claim" as "a right to payment, *whether or not the right is reduced to judgment*[.]" MCL 566.31(c) (emphasis added). Where MCL 418.647(2) clearly provides that Williams, as an officer of On Time Transportation, was personally liable for the unsatisfied portion of the judgment against the corporation, plaintiff clearly had a "[c]laim" against Williams, MCL 566.31(c), a "[d]ebt" remained outstanding where the judgment had not been satisfied in full, MCL 566.31(e), and Williams, personally liable to pay the claim as an officer of the corporation, was a "[d]ebtor" as set forth in MCL 566.31(f).

Moreover, our review of MCL 418.647(2) yields nothing to suggest that a judgment must be in fact entered specifically against the "officers and directors of the corporation" to hold them personally liable for the judgment. And, as plaintiff points out, we are not permitted to insert language into the statute beyond its plain language. *Winkler v Marist Fathers of Detroit, Inc*, ___ Mich App ___, ___; ___ NW2d ___ (2017) (Docket No. 323511); slip op at 8. Instead, our review of the first sentence of MCL 418.647(2) indicates that the Legislature intended that the officers and directors of a corporation would indeed be held personally liable on the judgment entered against the corporation, where the plain language of the statute provides, "the officers and directors of the corporation shall be individually and jointly and severally liable *for any portion of the judgment returned unsatisfied after execution against the corporation*." (Emphasis added.) The statute makes no reference to an additional judgment being entered.[12] This statutory language follows subsection (1) of MCL 418.647, which refers to the judgment entered against an employer and the employer's inability to claim any exemptions to protect its property from being seized and sold. Consequently, our review and interpretation of the plain language of both MCL 418.647 and MCL 566.31 does not support the trial court's conclusion that for Williams to be held personally liable as contemplated by MCL 418.647, and for the Act to apply to the transfer of the Antietam property, that a judgment personally entered against Williams was required.

We acknowledge that there is a line of authority from this Court concluding, in the context of bankruptcy proceedings, that where the corporation entered into bankruptcy, an additional judgment *may* be entered against the officers and directors of the bankrupt

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[11] 2016 PA 331, effective March 8, 2017 and 2016 PA 552, effective April 10, 2017 amended MCL 566.34 and MCL 566.35, but the amendments are not dispositive in our analysis.

[12] MCL 418.863 also contains no such language.

corporation. The initial case in this line of authority is *Wyrybkowski v Cobra Pre-Hung Doors, Inc*, 66 Mich App 555, 559; 239 NW2d 660 (1976). In *Wyrybkowski*, the plaintiff was awarded worker's compensation benefits arising out of his injuries during the course of his employment, and the corporation that he worked for subsequently filed for bankruptcy. *Id*. at 556. After the bankruptcy was filed, the plaintiff filed a petition for entry of a judgment of the circuit court with regard to the award of benefits. *Id*. The judgment was entered, and named the corporation as well as the officers and directors of the corporation. *Id*. An order of distribution was then entered with regard to the bankruptcy, and the bankruptcy estate was closed. *Id*. at 556-557. The *Wyrybkowski* Court recognized that the case presented "the narrow question of whether the circuit judge erred in entering as a judgement a workmen's compensation award against the corporation and the officers and directors of a corporation pursuant to MCL 418.647 . . . where the corporation had filed a bankruptcy petition and the trustee in bankruptcy had not yet entered an order of distribution." *Id*. at 557.

> This is a case of first impression in this jurisdiction regarding the procedure which should be required by a workmen's compensation claimant who has been awarded compensation by the workmen's compensation appeal board against an uncollectable corporate defendant, to enable him to hold the officers and directors of the corporation individually and jointly and severally liable due to their noncompliance with [MCL 418.611], which requires them to insure payment of compensation benefits by one or more prescribed means. [*Wyrybkowski*, 66 Mich App at 557.]

The *Wyrybkowski* Court went on to hold, in pertinent part, as follows:

> Remedies against the corporate defendant, therefore, must be exhausted before proceeding against the officers and directors. [MCL 418.647] does not expressly provide for those circumstances where the corporation has filed a bankruptcy petition making the execution of a judgment against the corporation a useless gesture. We hold, therefore, that where the officers and directors of a bankrupt corporation are individually and jointly and severally liable for a workmen's compensation award, due to noncompliance with [MCL 418.611], a judgment may be entered against them in circuit court pursuant to [MCL 418.647] for any portion of the award remaining unpaid after the distribution of assets by the trustee in bankruptcy and the closing of the bankrupt estate. We recognize that this requires duplication of effort in this case, but the court's previous judgment must be set aside and remanded for an entry of a new judgment against the officers and directors. *This is required, as is obvious, because the previous judgment was not valid at the time of entry*. Plaintiff may, therefore, petition the circuit court for entry of a judgment against the officers and directors for the unpaid portion of his award. [*Wyrybkowski*, 66 Mich App at 559 (emphasis added).]

Accordingly, the Court's opinion in *Wyrybkowski* makes clear that the entry of an order against the directors and officers of the corporation in that case was *permitted* under the unique circumstances of that case, where the corporation was already in bankruptcy proceedings at the time the judgment against the corporation was entered, and where the Court recognized the

initial judgment entered against the corporation and its officers was invalid at its entry as a result. *Id*. at 556, 559. Notably, nothing in the Court's opinion in *Wyrybkowski* reflects that the Court's interpretation of MCL 418.647 *required* entry of a judgment against the officers and directors to hold them personally liable. Consequently, *Wyrybkowski* is factually distinguishable. Additionally, it is also not binding precedent where it was decided before November 1, 1990. MCR 7.215(J)(1); *Hoffenblum v Hoffenblum*, 308 Mich App 102, 116 n 3; 863 NW2d 352 (2014).

Subsequently, in *LeBlond v All Right Auto Parts, Inc*, 81 Mich App 509, 513; 265 NW2d 394 (1978), this Court, noting that it had "recently discussed the procedure a plaintiff should follow" pursuant to MCL 418.647 "when execution against a corporate defendant would be useless[ ]" in the context of bankruptcy proceedings, clarified, in pertinent part, as follows:

> Our decision in *Wyrybkowski* does not require the circuit court to delay entry of a judgment against officers and directors of a bankrupt corporation until the closing of the bankruptcy proceedings. Thus, plaintiff may properly seek entry of a judgment on his workmen's compensation award against officers and directors prior to any execution of the award against a bankrupt corporate defendant.
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> However, according to *Wyrybkowski*, the statute does not require prior execution of a workmen's compensation award against a bankrupt corporate defendant before the plaintiff can have his workmen's compensation award entered against officers and directors, provided that the award is modified to provide for the possibility of recovery from the bankrupt corporate defendant.
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> To hold that plaintiff's failure to appear in the bankruptcy proceeding bars his claim against the officers and directors for the excess of his award over the distributable assets of the bankrupt corporate defendant not only would be contrary to our holding in *Wyrybkowski* but would defeat the purpose of [MCL 418.647]. Clearly, the statute intends to afford redress to workmen's compensation plaintiffs against the officers and directors of a corporation which fails to carry workmen's compensation coverage. Holding against plaintiff in this case would defeat the protective policy of the workmen's compensation act. [*LeBlond*, 81 Mich App at 513-514.][13]

Accordingly, similar to *Wyrybkowski*, nothing in *LeBlond* indicates that the entry of a judgment is *mandatory* for officers and directors of a corporation to be held personally liable for

[13] The plaintiff in *LeBlond* had challenged the trial court's decision to not enforce a worker's compensation award against individual officers and directors of a corporation that had filed for bankruptcy "and [that] the plaintiff failed to prove a claim in the bankruptcy proceedings." *LeBlond*, 81 Mich App at 511.

the non-payment of worker's compensation benefits as set forth in MCL 418.647. Notably, both cases were decided in the factual context of the corporation at issue filing for bankruptcy, and like *Wyrybkowski*, *LeBlond* is also not binding precedent. MCR 7.215(J)(1).

Therefore, plaintiff, by virtue of MCL 418.647, at the time of the transfer of the Antietam property, was a "[c]reditor" of Williams as contemplated by MCL 566.31(d) where plaintiff held a "[c]laim[,]" against him. MCL 566.31(c). Specifically, the plain language of MCL 418.647(2) clearly delineates that plaintiff had a claim, being a "right to payment, whether or not reduced to judgment[,]" against Williams when the Antietam property was transferred. MCL 566.31(c). Moreover, the parties do not dispute that, as set forth in MCL 418.647(2), following the issuance of a writ of execution in November of 2004, the judgment against the corporation remained unsatisfied.[14] Accordingly, the provisions of the Act are indeed applicable to this case. However, where the trial court did not consider whether plaintiff had stated a claim pursuant to MCL 566.34 or MCL 566.35 or whether genuine issues of material fact existed with regard to whether the transfer of the Antietam property fell within the confines of these statutory provisions, we remand to the trial court for the consideration of these issues.

IV. CONCLUSION

The trial court erred in concluding that the Act was not applicable under the circumstances of this case, where plaintiff was seeking recovery of unpaid worker's compensation benefits pursuant to MCL 418.647. Accordingly, on the basis of the foregoing analysis, we reverse the trial court's order granting summary disposition in favor of defendants, and remand to the trial court for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Christopher M. Murray
/s/ Karen M. Fort Hood
/s/ Elizabeth L. Gleicher

[14] Notably, during the hearing on April 26, 2016, defendants did not counter plaintiff's assertion that following the entry of the November 2004 writ of execution, the judgment against On Time Transportation remained unsatisfied.