

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

U.S. BANKRUPTCY COURT X
NORTHERN DISTRICT OF IOWA

JAN 26 1996

BARBARA A. EVERLY, CLERK

In re:

MICHAEL D. MONTGOMERY and)	Chapter 7
BRENDA M. MONTGOMERY,)	
)	Bankruptcy No. 95-50668XS
Debtors.)	

WILL L. FORKER, Trustee,)	
)	
Plaintiff,)	Adversary No. 95-5204XS
vs.)	
)	
FIREMEN'S FUND INSURANCE CO.,)	
)	
Defendant.)	

JUDGMENT

The issues of this proceeding having been duly considered by the Honorable William L. Edmonds, United States Bankruptcy Judge, and a decision having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED that defendant, Firemen's Fund Insurance Company, and that Defendant, as custodian within the meaning of 11 U.S.C. §543 shall surrender property of the estate described herein, to-wit, representing two-thirds (2/3) of the annuity issued by Defendant to Brenda M. Montgomery, as a result of the settlement of her claim against Gilroy Unified School District, with said payment to be disbursed to the Chapter 7 trustee when the annuity becomes payable under the annuity contract, and that costs of this action are taxed to the Defendant.

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BARBARA A. EVERLY
Clerk of Bankruptcy Court

By: *Larrie Slozka*
Deputy Clerk



[Seal of the U.S. Bankruptcy Court]
Date of Issuance: January 25, 1996

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

U.S. BANKRUPTCY COURT X
NORTHERN DISTRICT OF IOWA

JAN 26 1996

BARBARA A. EVERLY, CLERK

IN RE: : CHAPTER 7
MICHAEL D. MONTGOMERY and :
BRENDA M. MONTGOMERY, : CASE NO. 95-50668XS
Debtor(s) . :

WIL L. FORKER, TRUSTEE, : ADVERSARY NO. 95-5204XS
Plaintiff, :
vs. : ORDER
FIREMEN'S FUND INSURANCE CO., :
Defendant. :

NOW ON this 26 day of January, 1996, the above matter comes before the Court on Plaintiff's Application for Default, and the Court having reviewed the file, FINDS:

1. That Plaintiff is the duly appointed and acting Chapter 7 trustee in this case.

2. That this case arises out of the Chapter 7 bankruptcy of Michael and Brenda Montgomery, Case #95-50668XS, filed on April 13, 1995.

3. Prior to the commencement of the bankruptcy case, the Debtor, Brenda Montgomery, had an interest in an annuity as the result of a structured settlement of a case arising out of a claim in California against Gilroy Unified School District. That as a structured settlement of that case, Firemen's Fund Insurance Company is holding an annuity.

4. That said annuity provided for periodic payments of Five Thousand Dollars (\$5,000.00), and that there is remaining one (1) payment of Five Thousand Dollars (\$5,000.00).

5. That as a result of an Objection to Exemption filed by the Trustee where Brenda Montgomery had claimed as exempt the proceeds from the annuity, the Court determined that two-thirds (2/3) of the remaining annuity payment was not exempt to the Debtor and thus was property of the estate.

6. That Defendant was served with the Summons and Complaint on December 14, 1995, as evidenced by the Certificate of Service.

7. That Defendant has failed to file an Answer or Motion, and the deadline to timely file an Answer or Motion has expired.

8. That judgment should enter against Defendant.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment be entered against Defendant, Firemen's Fund Insurance Company, and that Defendant, as custodian within the meaning of 11 U.S.C. §543, be ordered to surrender property of the estate described herein, to-wit, representing two-thirds (2/3) of the annuity issued by Defendant to Brenda M. Montgomery, as a result of the settlement of her claim against Gilroy Unified School District, with said payment to be disbursed to the Chapter 7 trustee when the annuity becomes payable under the annuity contract, and that costs of this action are taxed to the Defendant.

BY THE COURT:



WILLIAM L. EDMONDS
U.S. Bankruptcy Judge

copies of order and a judgment to:
Wil Forker, Alvin Ford, USTrustee,
Firemen's Fund Ins. Co. on 1/26/96, 1s
Prepared by:
Wil L. Forker, Trustee 1707