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While O.J. goes free, the story is far from over

Breaking news — Nevada inmate number 1027820 will be granted parole and released from prison on Oct. 1!

Typically, parole board hearings do not generate much interest. But Orenthal James “O.J.” Simpson is hardly a typical prisoner. His parole board hearing last week was broadcast live throughout the world with millions watching every step of the proceeding.

The parole hearing was the latest chapter in one of the most fascinating, and certainly the most watched, series of legal proceedings in our history.

Most remember where they were when Simpson — the Hall of Fame football player, actor and household name — was acquitted of murder in 1995. Whether they celebrated or bemoaned, all of America was enthralled with the case, and largely remain so today with two miniseries airing last year on the topic.

On Oct. 3, 2008, a Nevada jury found Simpson guilty on 12 counts, including conspiracy to commit a crime, assault, armed robbery and kidnapping, all arising out of an incident in Las Vegas. He was sentenced to 33 years in prison with the possibility of parole after nine. Last week, that possibility became a reality.

With his release from prison, many questions remain regarding Simpson — most interestingly, whether a largely uncollected 1997 civil judgment entered against him will ever be satisfied.

After acquittal in the criminal case, Simpson then stood trial in a civil action for the wrongful deaths of ex-wife Nicole Brown Simpson and her friend, Ronald Goldman. On Feb. 4, 1997, Simpson was found liable, and a Los Angeles jury awarded the families a \$33.5 million civil judgment.

That verdict included \$8.5 million in compensatory damages to Goldman's family for the loss of love, companionship, comfort, affection, society, solace or moral support suffered as a result of his death.

The jury also awarded \$12.5 million in punitive damages to both the estate of Ronald Goldman and the estate of Nicole Brown Simpson.

Following the judgment, Simpson appealed. The California Court of Appeal affirmed the entry of judgment on the jury verdict. *Rufo v. Simpson*, 86 Cal.App.4th 573 (2001). Simpson then filed a pro se appeal to the California Supreme Court. Simpson asked the court to reverse the civil judgment because it was “built on top of a failed prosecution, a prosecution which was suspect for corruption, fraud, contamination, coercion and collusion.” David Kravets, O.J. Appeal Rejected, ABC News, April 25, 2001.

He claimed that he was denied the right to confront witnesses and evidence against him during the civil trial. *Id.* None of the California Supreme Court justices voted to review Simpson's appeal.

Execution on those judgments has proved difficult. Simpson's post-prison residency will play a large role in further collection actions.

If Simpson were to move back to California, a court could force the sale of his home to satisfy a judgment lien. Instead, Simpson has indicated he prefers to move to Florida to be near his daughter. It is likely that Simpson will return to Florida not only for the company of his children, but also because of Florida's homestead laws.

According to the Florida Constitution, no judgment shall be a lien on a home, with few exceptions which do not apply to the judgment against Simpson. Fla. Const. Art. X, Section 4. The exception applies even upon death — his home will pass directly to his heirs.

While Simpson will likely be returning to Florida, he will not be returning to his 4,233 square foot house in Kendall, Fla., the home he occupied nine years ago was foreclosed upon in 2013 when Simpson failed to make his

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mortgage payments from prison.

Still, there's reason to believe that he will have no problem purchasing a new home. During his civil jury trial, both the plaintiffs and the defendant introduced expert testimony as to Simpson's net worth and the value of Simpson's name and likeness for the rest of his life. *Rufo*, 86 Cal.App.4th at 617-619.

The plaintiffs' experts opined that his overall net worth was approximately \$7.2 million. *Id.*

While only Simpson and his financial advisers can be sure how much he is worth today, at the time of the civil trial, Simpson had two non-NFL pension plans with a combined value of \$4.121 million. *Id.*

In addition, Simpson had vested in the NFL's pension plan. If O.J. elected to defer payments from the plan until age 65, as most would advise, he could receive as much as \$100,680 a year from the plan.

While these accounts are surely adding up, the Employee Retirement Income Security Act (ERISA) protects these private pension accounts from creditors, including the families of Goldman and Nicole Brown Simpson. Only a civil judgment awarded for an action brought in connection with a violation of ERISA may be taken from an individual's pension. 29 U.S.C.A. Section 1056. A wrongful-death judgment does not fit that description.

Simpson will also now be eligible for Social Security benefits of up to \$3,538 per month upon his release. Chris Isidore, Here's How Much O.J. Simpson Stands to Make in Retirement, CNN Money, July 21, 2017. While he could not receive benefits during his prison term, these benefits now begin. Yet, once again, these payments cannot be garnished by creditors.

The families of Goldman and Nicole Brown Simpson indeed face difficult hurdles in recovery of their judgments. The easiest path toward recovery is if Simpson begins earning money from appearances, book sales, acting, etc.

In 2007, a federal bankruptcy judge in Florida awarded the Goldman family the rights to Simpson's book, titled “If I Did It.” *In re Lorraine Brooke Associates Inc.*, 2007 WL 7061312 *5. The proceeds had been diverted to a corporation owned by Simpson's four children, but the court found that the entire structure and series of transactions between Simpson and the corporation was “a scheme and a device of Simpson and others to hinder, delay and defraud creditors” such as the Goldman family. *Id.*

To date, the Goldmans have also obtained proceeds from movie royalties, grabbed a handful of small bank accounts and even acquired some of Simpson's golf gear. Despite these collections, Goldman's sister stated that Simpson has paid less than 1 percent of the judgment he owes, which continues to accumulate interest as it remains unpaid.

Despite the obstacles, the Goldman family refuses to quit fighting.

“The civil system awarded us a judgment,” Goldman's sister said. “[I]t is our job to follow the system, to follow the law and to pursue that judgment. That's his punishment.”

Is this the last we will hear of the criminal and civil cases against O.J. Simpson? Only time will tell.