Selling their payments

Graphic by C.J. SINNER and THOMAS OIDE • Profiles by JEFFREY MEITRODT and NICOLE NORFLEET • Star Tribune staff

Since 2000, hundreds of Minnesotans have sold future portions of their long-term legal settlements for an upfront cash payment. In so doing, many ended up with far less than they were originally entitled to receive in future payments. The Star Tribune gathered data on more than 1,200 cases approved by Minnesota judges.

Austin Cummings

The first time Austin Cummings tried to sell some of his settlement payments, his grandmother helped block the deal by filing a protest with the court. In her letter, she told the judge that her grandson had struggled with mental illness for years and was in "need of court ordered protection."

That didn't stop Cummings. He cut two new deals with another company, which filed applications to sell his payments in a different county. His family was not notified of these court proceedings, and the judges allowed Cummings to sell $341,039 in future payments for $152,250. At the time of the sale, the payments were valued by the company at $282,217.

"I am extremely upset," said Marcie Selton, Cummings' grandmother, who obtained the settlement for Cummings by filing a lawsuit over his mother's drug-related death in 2006. "I would have tried to stop it."

In an affidavit supporting one of the transactions, Cummings said he backed out of the first deal because he became convinced that J.G. Wentworth, the company seeking court approval to buy his payments, was "trying to take advantage of me." Cummings said RightWay Funding, from Florida, "offered me a much better deal."

Cummings, 24, could not be reached for comment. In a 2019 interview, Selton said her grandson wasted the money. She said the courts should conduct background checks to make sure anybody trying to sell their payments is mentally competent. "I got that money for him so he could go to college and buy a home," Selton said. "Now he has nothing."

Valeta Shields

A history of mental health and substance abuse problems did not prevent judges from allowing Valeta Shields to sell the vast majority of the payments she was due after birth control medication caused a blood clot in her lung.

She was first hospitalized after a drug overdose in 2005 and bounced in and out of treatment for years, court records show. Her parental rights to two children were terminated. By 2013, she was homeless and once again addicted to drugs.

That December, she was sent to a psychiatric unit after being found wandering in subzero temperatures in northern Minnesota. She had been hearing voices and was suicidal, according to the social worker who filed the petition seeking civil commitment.

In 2016, Shields sold $37,788 of the future settlement payments for $20,615. The company valued the payments at $35,831.

Otter Tail County Judge Mark Hansen said he was unaware of Shields' problems when he granted her request. "That certainly would have been a red flag, if I had known it," Hansen said. "I would probably have deferred taking any action and asked for more information."

In a 2019 interview, Shields said she had just completed treatment when she went to court to sell her payments. At the time, she said, she was working for minium wage and needed money to pay overdue bills and regain her driver's license.

"If I was a judge, I probably would have denied me," said Shields, who was supposed to get $47,376 in future payments for the blood clot. "I wouldn't let someone fresh out of treatment have a big lump sum of money."

CHARTING THE DEALS

More than 700 Minnesotans have sold their structured settlement payments at least once since 2000. Many completed more than one sale, so we combined all the sales a person has made into a single dot. On average, sellers only received 40% of their future payments in cash.

Fewer than 20 people received cash equal to at least 80% of their future payments. A Ramsey County judge approved a 2015 deal in which the seller received 88.2% of their payments, noting it was "a pretty decent proposal."

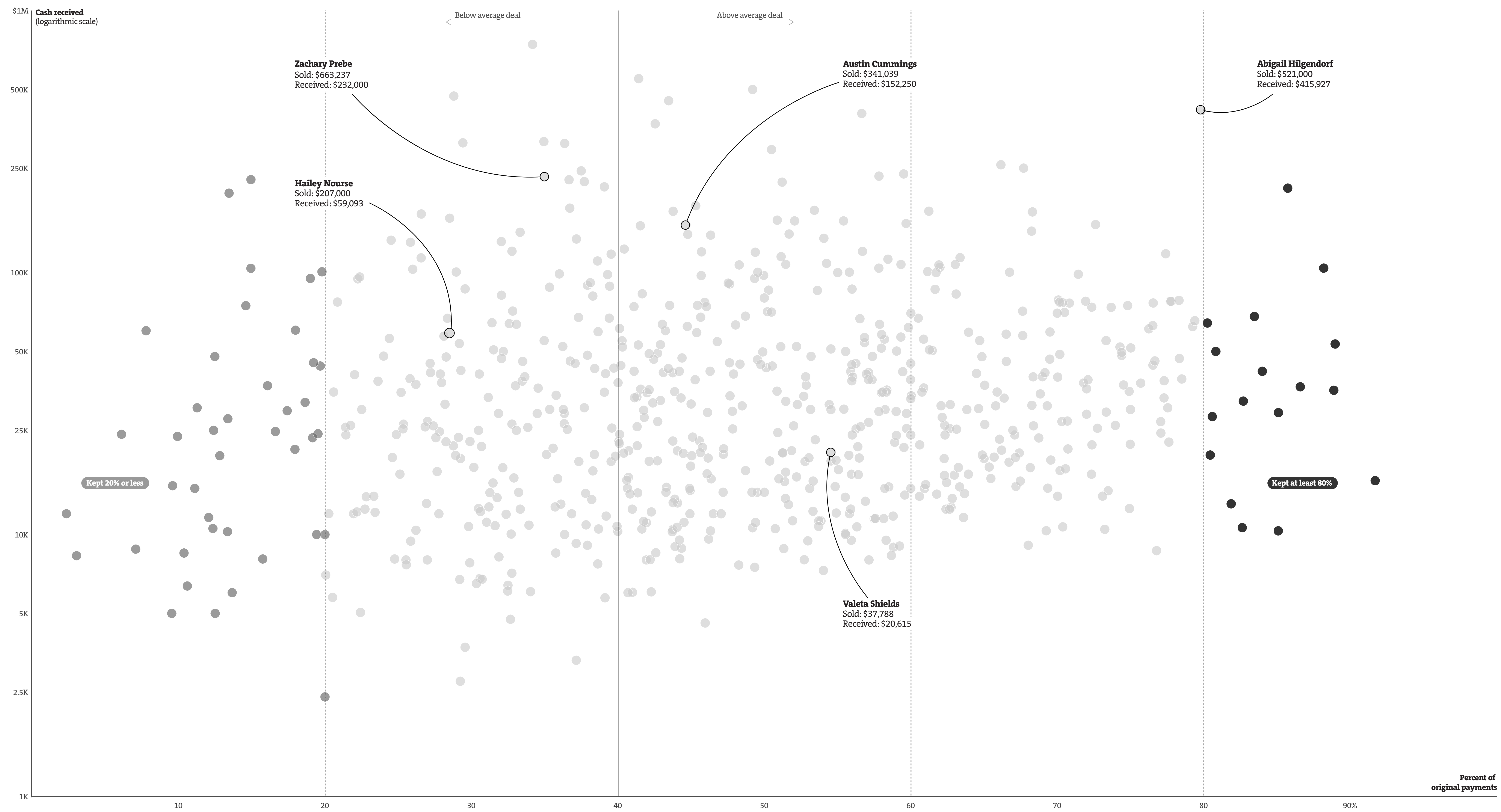
But more than 40 Minnesotans ended up with cash equal to 20% or less of their future payments. A Morrison County judge rejected a 2013 deal in which the seller would have received 15.6% of their payments, calling it "an unconscionably small return on the payments being forfeited."

Marla Hardy, profiled here, is not charted because financial details were only available in filings for the last of her three approved deals, in which she sold $176,000 and received $52,722.

ABOUT THE DATA

Applications to buy settlement payments are public record, and the Star Tribune reviewed more than 1,700 individual case filings in Minnesota courts over the last 20 years. We compiled a database with information on each case, including the company that bought the payments; the financial terms if available; the district court and presiding judge; whether the case was approved, denied, dismissed or pending, and notable details about the person filing to sell their settlement.

To measure individual outcomes, we filtered the data to about 1,200 sales that judges approved. We summarized those deals by person, identifying about 800 individuals who made at least one sale, including the total amount they sold and received. We removed people for whom we didn't have financial details from all of their sales. This left nearly 700 people for whom we calculated the total percentage of money they received against what they would have received had they not sold any payments.



Abigail Hilgendorf

When the pandemic hit, business disappeared for hairstylist Abigail Hilgendorf, who is raising five children by herself.

"I spent six months with my job being closed," said Hilgendorf, 32, who has been cutting hair for 13 years. "And even when I went back to work, my hours were cut ridiculously. I'm maybe getting one-fourth of the income I used to."

Facing $36,000 in pandemic-related credit card debt, Hilgendorf had a radical plan for improving her finances: She'd buy the Fridley salon from her employer, enabling her to keep most of the profits when business recovered.

To finance the purchase, Hilgendorf decided to sell $300,000 in settlement payments she was scheduled to receive in 2023 and 2028 from a lawsuit over her father's work-related death in 1998.

Unlike many sellers, who deal with just one company, Hilgendorf solicited offers from 10 competitors. It wasn't hard to find them. Since first selling some of her future settlement payments in 2017, Hilgendorf has been inundated with offers.

"I probably get four to five deals in the mail every day," she said. "I've even filed cease-and-desists with some companies because they don't stop. They will even send people to solicit me at work or call my job."

The resulting bidding war increased Hilgendorf's overall payment by 40%, boosting it from $175,000 to $245,848. The winning bidder, J.G. Wentworth, valued her payments at $293,267. Of the 1,700 deals examined by the Star Tribune, fewer than two dozen offered better terms, records show.

"Don't take the first deal," said Hilgendorf, who was offered a $1,700 signing bonus from one of the companies, among other incentives. "I got six months of Omaha Steaks from one company, and I didn't even do my deal with them."

Hilgendorf is using $100,000 of the money to buy a 60% stake in her salon. She figures it may take three to four years to earn it back.

Anoka County Judge Kristin Larson, who approved Hilgendorf's deal with J.G. Wentworth in January, applauded her financial acumen during the hearing.

"She has a plan, certainly, as to why this makes sense financially," Larson said. "I am convinced she knows what she is doing."

Hailey Nourse

Hailey Nourse was a senior in high school when she first went to court to sell part of the $356,038 she was due to receive for the wrongful death of her mother.

Nourse, who was 18 at the time, later told social workers that she had attempted suicide two years before her court appearance and been sent to a mental health facility, according to court records. In 2014, she had a 7-month-old daughter and owed nearly $8,000 in birth-related hospital expenses.

At the hearing, she told the judge she had no job and was behind on her rent. She was facing eviction. The electric company was threatening to shut off her power.

Nourse asked Ramsey County Judge William Leary III to allow Peachtree Settlement Funding to buy $171,000 in future payments from her for $39,000 so she could buy a car and catch up on her bills. Peachtree said the payments were worth $110,992 at the time.

"I am really struggling right now with the money," Nourse told the judge, according to a transcript of the hearing. "I just want to make sure that I have a stable place for my daughter."

Leary, however, believed Nourse was giving up too much money and urged Peachtree to come back with a better deal. Later that day, Leary signed an order that gave Nourse a total of $49,093 for her payments, an increase of more than $10,000.

Nourse returned to court in 2016 to sell another $36,000 in future payments after Ramsey County social workers filed a child-protection case against her, citing Nourse's drug use and mental problems. The company valued the payments at $29,851, but Nourse agreed to sell them for $10,000. She told the judge she would use the money to rent an apartment to help her retain custody of her daughter. The judge approved her request.

Four months later, a Ramsey County judge awarded permanent custody of her daughter to the child's father. In a court filing, county social workers said Nourse had failed to address her chemical dependency and mental health problems. In the petition, the county said Nourse "has a history of limited judgement and decisionmaking ability, which negatively affect her choices."

Nourse could not be reached for comment.

Marla Hardy

Marla Hardy said a 1995 car crash "took everything away from me."

A traumatic brain injury ended her career as a nurse. The $836,100 legal settlement provided monthly payments of $1,867 through 2026, plus larger payments every few years.

Hardy first sold some of her payments to Florida-based Novation Capital in 2002. Altogether, she sold hundreds of thousands of dollars in future payments, keeping a fraction of the money. In one deal, court records show that Novation paid $52,722 for $176,000 in payments that had a present value of about $100,000.

In 2014, a county social worker asked the courts to appoint a guardian to take control of Hardy's finances so she couldn't sell any more of her payments. Her petition noted that Hardy was mentally ill and had been unable to care for herself since 2010. She told the court that staff members at Hardy's group home had asked a Novation salesperson to leave when the representative showed up unannounced in an effort to get Hardy to sign paperwork for a pending sale.

A Todd County judge approved the request for a guardian, but it came too late for Hardy. In 2018, she lost her home because she couldn't pay $10,000 in property taxes.

In a 2019 interview, Hardy said she won't be getting any more payments until she turns 62 in three years. She said she didn't have the mental capacity to understand what she was giving up, and thinks the courts should appoint someone to represent those seeking to sell their payments to make sure they are not exploited.

"I wish I hadn't done it," Hardy said.

In a written response to questions, Novation said its deals with Hardy complied with all regulations, saying she "retained very substantial remaining payments" after her final sale in 2004. "We can say with absolute certainty that at no time did a Novation employee visit or even try to visit with Ms. Hardy at a group home or anywhere else," the company said in its statement, which was provided by a spokesperson for an industry trade group, the National Association of Settlement Purchasers. "As a member of NASP, Novation continues to advocate for strengthened state consumer protection laws that govern the transfer of structured settlements."

Zachary Prebe

Zachary Prebe was 2 years old when a tractor-trailer truck smashed into his mother's car, killing her and seriously injuring him and his younger sister. Prebe, who suffered a traumatic brain injury in the 1995 crash, wound up with a settlement package that was supposed to pay him more than $4 million over the course of his life. But in four separate transactions in 2013, J.G. Wentworth bought $663,237 in payments for $232,000. At the time, the company valued the payments at $566,292.

To protect his remaining finances, Prebe's family petitioned the courts to appoint a conservator in 2014, when he was 21.

His grandmother, Marie Stein, said urgent action was needed because Prebe had recently agreed to sell an additional $1.8 million in future payments to Seneca One for $250,000, according to the petition. She said Zachary was a "low-functioning adult" who was "unable to handle his affairs."

Judges rejected the sale and approved the family's request for a conservator. But Prebe's father is still angry that two other Goodhue County judges approved the previous sales. In 2018, Zachary Prebe was committed to a mental health care facility for six months, records show.

"The judges are wrong, in my eyes, for letting them do it," Ron Prebe said. "It's like they must be getting a cut, because anybody in their right mind would not let these companies do that."

Zachary Prebe didn't return calls seeking comment. In a written statement, now-retired Judge Lawrence Clark — who approved two of Prebe's sales — said the courts presume someone is mentally competent "unless evidence that indicates the contrary is presented to the court." In his view, Clark said, the rules forbid judges from ruling in settlement transfer cases "on the basis of what they would recommend for a person."