

SWANICK BUILDERS, LLC

v.

MICHAEL FUFIDIO

Submitted on Briefs January 27, 2011

Decided March 22, 2011

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

#### MEMORANDUM OF DECISION

Michael Fufidio appeals from a judgment of the District Court (York, *Janelle, J.*) awarding Swanick Builders, LLC, interest and attorney fees in addition to damages related to amounts owed for construction services. Although neither party raises the issue, we note that the court's judgment expressly addresses only Swanick Builder's claim to enforce a mechanic's lien, 10 M.R.S. § 3255 (2010), stated in Count I of the complaint. The court may have also intended to address Swanick Builder's claim pursuant to the prompt payment statute, 10 M.R.S. §§ 1113, 1118 (2010), stated in Count II, because the judgment includes an award of interest and attorney fees—remedies that are not available under the mechanic's lien claim stated in Count I. However, the judgment does not explicitly mention Count II. Further, the judgment does not address, in any respect, the three remaining claims in Counts III, IV, and V.

The judgment is not a final judgment because it only addresses Count I. *See* M.R. Civ. P. 54(b)(1); *Sanborn v. Sanborn*, 2005 ME 95, ¶ 4, 877 A.2d 1075, 1076. Additionally, from our review of the record, none of the exceptions to the final judgment rule apply. *See Sanborn*, 2005 ME 95, ¶ 7, 877 A.2d at 1076; *United States, Dep't of Agric., Rural Hous. Serv. v. Carter*, 2002 ME 103, ¶¶ 7-13, 799 A.2d 1232, 1234-36. Because this appeal is interlocutory, we do not reach the merits of Fufidio's arguments.

The entry is:

Appeal dismissed.

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