

FIRST HORIZON HOME LOANS

v.

BONNIE J. RAY

Submitted on Briefs April 25, 2013

Decided May 7, 2013

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

MEMORANDUM OF DECISION

Bonnie J. Ray appeals from an order of the Superior Court (Cumberland County, *Wheeler, J.*) granting a motion filed by First Horizon Home Loans (First Horizon) for relief from judgment pursuant to M.R. Civ. P. 60(b). Contrary to Ray's arguments, the court did not err or abuse its discretion in granting First Horizon's Rule 60(b) motion. *See McAllister v. McAllister*, 2011 ME 69, ¶ 16, 21 A.3d 1010 ("We review the grant of relief pursuant to Rule 60(b) for an abuse of discretion."); *Ezell v. Lawless*, 2008 ME 139, ¶ 23, 955 A.2d 202 (stating that, in the absence of findings or a motion for findings pursuant to M.R. Civ. P. 52, we assume that the trial court made "all necessary findings and conclusions to support its decision, if those findings would be supported by the record"). The record before the court would support the conclusion that First Horizon mistakenly believed that Ray had agreed to a settlement, and was justified in failing to avoid the mistake. *See* M.R. Civ. P. 60(b)(1) (permitting relief from judgment due to "mistake, inadvertence, surprise, or excusable neglect"); *Pederson v. Cole*, 501 A.2d 23, 25 (Me. 1985) ("The moving party [on a Rule 60(b)(1) motion] must allege facts sufficient to support a claim of mistake, surprise or excusable neglect, and make some showing of why he was justified in failing to avoid the mistake, surprise or neglect." (citation omitted)).

The entry is:

Judgment affirmed.

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**On the briefs:**

Joshua Klein-Golden, Esq., Clifford & Golden, P.A., Lisbon Falls, for  
appellant Bonnie J. Ray

Brent A. York, Esq., Phillips, Olore, Dunlavey & York, P.A., Presque Isle,  
for appellee First Horizon Home Loans