

BARBARA J. SMILEY

v.

LIBERTY MUTUAL INSURANCE COMPANY et al.

Argued November 9, 2016  
Decided November 22, 2016

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

#### MEMORANDUM OF DECISION

Barbara J. Smiley appeals from the Superior Court's (Franklin County, *Stokes, J.*) entry of a judgment on the pleadings, pursuant to M.R. Civ. P. 12(c), in favor of Liberty Mutual Insurance Company and Vermont Mutual Insurance Group on Smiley's complaint seeking underinsured motorist coverage payments from each of those insurers. Contrary to Smiley's contention, we conclude, after applying Maine law to the construction of the Liberty Mutual policy, that the "anti-stacking" provision in the policy does not violate 24-A M.R.S. § 2902 (2015), and is therefore enforceable. *See Molleur v. Dairyland Ins. Co.*, 2008 ME 46, ¶ 10, 942 A.2d 1197; *Moody v. Horace Mann Ins. Co.*, 634 A.2d 1309, 1310-11 (Me. 1993); *Gross v. Green Mountain Ins. Co.*, 506 A.2d 1139, 1141-42 (Me. 1986). Accordingly, the court did not err in entering judgment for Liberty Mutual and Vermont Mutual.<sup>1</sup> *See Faith Temple v. DiPietro*, 2015 ME 166, ¶ 26, 130 A.3d 368 ("We review a judgment on the pleadings de novo.").

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<sup>1</sup> Smiley agreed in the trial court that if Liberty Mutual is entitled to a judgment on the pleadings, then Vermont Mutual is as well.

The entry is:

Judgment affirmed.

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**On the briefs:**

Verne E. Paradie, Jr., Esq., Lewiston, for appellant Barbara J. Smiley

Nolan L. Reichl, Esq., Pierce Atwood LLP, Portland, for appellee Liberty Mutual Insurance Company

Joshua A. Randlett, Esq., and David C. King, Esq., Rudman Winchell, Bangor, for appellee Vermont Mutual Insurance Group

**At oral argument:**

Verne E. Paradie, Jr., Esq., for appellant Barbara J. Smiley

Nolan L. Reichl, Esq., for appellee Liberty Mutual Insurance Company

Joshua A. Randlett, Esq., for appellee Vermont Mutual Insurance Group