MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 18-44
Docket No. Lin-17-377

NEW ENGLAND RECEIVABLES, LLC

v.

ROBERT W. VAN BRUNT

Argued May 16, 2018
Decided May 24, 2018

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

MEMORANDUM OF DECISION

Robert W. Van Brunt appeals from a judgment of the District Court (Wiscasset, *Worth, J.*) entered in favor of New England Receivables, LLC, for approximately $7,000 plus interest and costs, based on claims arising from a credit card debt. *See* 14 M.R.S. § 1901(1) (2017); M.R. App. P. 2(b)(3) (Tower 2016).[1]

Van Brunt contends that the court erred by admitting two documents as business records, *see* M.R. Evid. 803(6), offered as evidence of the sale of his credit card account, ultimately, to New England Receivables. Because a witness for New England Receivables testified without objection as to the chain of ownership of Van Brunt's account even before the exhibits were offered in evidence, the information in the documents was cumulative, and so any error committed by the court was harmless, *see* M.R. Civ. P. 61; *In re Scott S.*, 2001 ME 114, ¶¶ 23-25, 775 A.2d 1144.

[1] Because the notice of appeal was filed prior to September 1, 2017, the restyled Rules are inapplicable. *See* M.R. App. P. 1 (restyled Rules).

Van Brunt also asserts that the court erred by applying Maine's statute of limitations rather than Delaware's limitations period that would bar this action. Because the statute of limitations is an affirmative defense, Van Brunt carried the burden of proving that defense at trial, *see* M.R. Civ. P. 8(c); *Northeast Harbor Golf Club, Inc. v. Harris*, 1999 ME 38, ¶ 15, 725 A.2d 1018. The only record evidence supporting that defense was Van Brunt's testimony that there is a credit card agreement stating that Delaware law would apply to any dispute. On this record, the court was not compelled to accept that testimony. *See Gravison v. Fisher*, 2016 ME 35, ¶ 31, 134 A.3d 857.

The entry is:

Judgment affirmed.

Vanessa A. Bartlett, Esq. (orally), Law Offices of Vanessa A. Bartlett, Portland, for appellant Robert Van Brunt

Brenden Smith, Esq. (orally), Law Office of Brenden Smith, Bowdoinham, for appellee New England Receivables, LLC

Wiscasset District Court docket number CV-2016-26
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