

M&T BANK

v.

LAWRENCE F. PLAISTED

Submitted on Briefs June 26, 2019
Decided July 2, 2019

Panel: ALEXANDER, MEAD, GORMAN, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Following our decision in *M&T Bank v. Plaisted*, 2018 ME 121, 192 A.3d 601, and the District Court's (Bangor, *Mallonee, J.*) entry of judgment in favor of Lawrence F. Plaisted on M&T Bank's complaint for foreclosure, Plaisted appeals from a further judgment of the court denying his motion for an award of legal fees pursuant to 14 M.R.S. § 6101 (2018).¹ On this record, we conclude that the court did not abuse the discretion granted to it by the plain language of the statute when it denied the motion upon finding that the Bank brought the foreclosure action in good faith and that other relevant factors weighed against awarding Plaisted his legal fees. 14 M.R.S. § 6101 ("If the mortgagee does not prevail, or upon evidence that the action was not brought in good faith, the court *may* order the mortgagee to pay the mortgagor's reasonable court costs and attorney's fees (emphasis added)); see *State v. Nisbet*, 2018 ME 113, ¶ 28, 191 A.3d 359; *Fitzpatrick v. McCrary*, 2018 ME 48, ¶ 16, 182 A.3d 737; *Homeward Residential, Inc. v. Gregor*, 2017 ME 128, ¶ 12, 165 A.3d 357; *Estate of Thelma M. Miller*, 2008 ME 176, ¶ 32 & n.7,

¹ Plaisted's request for oral argument was considered by the Court prior to conference and denied.

960 A.2d 1140 (“It is not necessarily an abuse of discretion to deny an award even to a party who did not initiate the action and then prevails.”).

The entry is:

Judgment affirmed.

Thomas A. Cox, Esq., Portland, and Patrick E. Hunt, Esq., Island Falls, for appellant Lawrence F. Plaisted

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Bangor District Court docket number RE-2016-71
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