

SYLVAIN THERIAULT et al.

v.

CHECKPOINT 70, INC., et al.

Submitted on Briefs June 20, 2024  
Decided June 27, 2024

Panel: STANFILL, C.J., and MEAD, HORTON, LAWRENCE, and DOUGLAS, JJ.

## MEMORANDUM OF DECISION

Sylvain Theriault and Manon Cote (collectively, Cote) appeal from a judgment of the Superior Court (Cumberland County, *Cashman, J.*) denying a motion for contempt and finding Checkpoint 70, Inc., Gary's Olde Towne Tavern, Inc., and Gary Skellett (collectively, Skellett) to be in substantial compliance with an August 2022 contempt order and an October 2020 arbitration award between the parties.

Contrary to Cote's arguments, the court did not err by finding that Cote failed to prove by clear and convincing evidence that Skellett failed or refused to comply with the prior contempt order and arbitration award, which both require Skellett to maintain a rock barrier between the parking area of Skellett's business and a leach field utilized by both parties' septic systems. *See* M.R. Civ. P. 66(d)(2)(D); *Beckerman v. Pooler*, 2015 ME 80, ¶ 7, 119 A.3d 74. The rock barrier adequately meets the requirements of the August 2022 order and the arbitration award and extends sufficiently westerly and easterly to protect the leach field. *See Bates v. Dep't of Behav. & Developmental Servs.*, 2004 ME 154, ¶ 38, 863 A.2d 890; *Gillman v. Dep't of Hum. Servs.*, 1998 ME 122, ¶ 10, 711 A.2d 154.

In addition, we conclude that neither the law of the case doctrine nor collateral estoppel foreclosed the court's determination. *Sprague v. Washburn*, 447 A.2d 784, 787 (Me. 1982); *Penkul v. Matarazzo*, 2009 ME 113, ¶ 7, 983 A.2d 375; *Gillman*, 1998 ME 122, ¶¶ 9-10, 711 A.2d 154.

The entry is:

Judgment affirmed.

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Gene R. Libby, Esq., Libby O'Brien Kingsley & Champion, Kennebunk, for appellants Sylvain Theriault and Manon Cote

Bradford A. Pattershall, Esq., Norman, Hanson & DeTroy, LLC, Portland, for appellees Checkpoint 70, Inc., Gary's Olde Towne Tavern, Inc., and Gary Skellett

Cumberland County Superior Court docket number CV-2021-50  
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