

MAINE INSURANCE GUARANTY ASSOCIATION

v.

KYLE ELLIS

Submitted on Briefs November 3, 2004
Decided November 29, 2004

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,
and LEVY, JJ.

MEMORANDUM OF DECISION

Kyle Ellis appeals from a judgment of the Superior Court (Somerset County, *Jabar, J.*) declaring that the Maine Insurance Guaranty Association had no obligation to cover Ellis for his injuries arising from an automobile accident. Contrary to Ellis's contentions, the court did not err in concluding that he failed to exhaust his rights pursuant to his available underinsured vehicle policy, *see* 24-A M.R.S.A. § 4443(1) (2000); *Jackson Brook Inst., Inc. v. Maine Ins. Guar. Ass'n*, 2004 ME 140, ¶ 13, --- A.2d ---, ---, and Ellis cannot succeed on his affirmative defense of equitable estoppel because, based on the stipulated facts and the plain

language of section 4443, MIGA did not mislead Ellis about his obligation to exhaust his underinsured vehicle coverage before seeking to recover from MIGA, *see* 24-A M.R.S.A. § 4443(1); *Stickney v. City of Saco*, 2001 ME 69, ¶ 44, 770 A.2d 592, 608.

The entry is:

Judgment affirmed.

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