

LAW OFFICES OF JAMES J. LEE

v.

DONALD SMITH et al.

LAW OFFICES OF JAMES J. LEE

v.

CITIZENS MORTGAGE CORPORATION

Submitted on Briefs March 24, 2004

Decided April 27, 2004

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

MEMORANDUM OF DECISION

Donald Smith appeals from summary judgments entered by the Superior Court (York County, *Fritzsche, J.*) in favor of the Law Offices of James J. Lee (Lee), a Nevada law firm, and Citizens Mortgage Corporation in these consolidated cases. Lee successfully sued for a declaratory judgment and injunctive relief, asserting that it had valid title to certain property, that had subsequently been deeded to Smith in a fraudulent transaction. Smith's mortgage lender, Citizens, sued to recover the amount of its loan, less the amount paid by its title insurance

carrier. Smith asserts that Lee is not entitled to judgment on its claims, and that Citizens had a duty to challenge the fair market value figure paid by its title insurance carrier in order to mitigate Smith's damages.

On Lee's claim, Smith does not demonstrate any issue of material fact or of law that could validate the transfer to Smith of property that had previously been transferred in fee to Lee. Citizens' transaction with its title insurer created no duty to Smith to mitigate Smith's damages.

The entry is:

Judgments affirmed.

Attorney for plaintiff:

Peter Clifford, Esq.
Hodsdon & Clifford, LLC
56 Portland Road
Kennebunk, ME 04043

Attorneys for defendants:

Mark A. Kearns, Esq.
128 State Road
Eliot, ME 03903
(for Donald Smith)

John J. Aromando, Esq.
Christopher R. Drury, Esq.
Pierce Atwood
One Monument Square
Portland, ME 04101
(for Citizens Mortgage Corp.)