

COLIN AREY

v.

STEPHEN H. HEDBERG

Submitted on Briefs February 27, 2006
Decided March 13, 2006

Panel: CLIFFORD, DANA, ALEXANDER, CALKINS, LEVY, and SILVER, JJ.

MEMORANDUM OF DECISION

Stephen H. Hedberg appeals from a judgment of the Superior Court (Somerset County, *Jabar, J.*), which found for Colin Arey on his claims for unjust enrichment and breach of contract relating to the installation of three septic systems at properties owned by Hedberg. The court also found in favor of Arey on Hedberg's counterclaims for fraud and violations of the Home Construction Contracts Act (HCCA), 10 M.R.S. §§ 1486-1490 (2005), and the Maine Unfair Trade Practices Act (MUTPA), 5 M.R.S. §§ 205-A to 214 (2005). Contrary to Hedberg's contentions on appeal, the court did not err or exceed its discretion in: (1) ruling that the HCCA did not apply due to the project's status as a business

venture, *see Runnells v. Quinn*, 2006 ME 7, ¶¶ 17-18, --- A.2d. ---, ---; (2) ruling that Hedberg had not alleged any ground for a MUTPA claim other than violation of the HCCA; (3) assessing the credibility of witnesses and weighing the evidence at trial, *see VanVoorhees v. Dodge*, 679 A.2d 1077, 1080 (Me. 1996); (4) applying the proper standard of proof, *see Jacobs v. Jacobs*, 507 A.2d 596, 599 (Me. 1986); (5) quashing several of Hedberg's subpoenas, *see Jacques v. Pioneer Plastics, Inc.*, 676 A.2d 504, 509 (Me. 1996); (6) denying Hedberg's motion for a new trial or amended findings, *see Cates v. Farrington*, 423 A.2d 539, 541 (Me. 1980); (7) refusing to allow co-defendant David Hedberg to testify as to issues of which he had no personal knowledge, *see M.R. Evid.* 602; (8) barring Hedberg's examination of Arey's attorney because of attorney-client privilege; (9) declining to sanction Arey for a discovery violation, *see St. Paul Ins. Co. v. Hayes*, 2001 ME 71, ¶ 7, 770 A.2d 611, 613; or (10) refusing to consider Hedberg's opening statement as evidence, *see State v. Bazinet*, 372 A.2d 1036, 1040 (Me. 1977).

The entry is:

Judgment affirmed.

Attorney for plaintiff:

Joshua A. Tardy, Esq.
William P. Logan, Esq.
Irwin Tardy Morris

P.O. Box 476
Newport, ME 04953

For defendant:

Stephen H. Hedberg
P.O. Box 911
Orleans, MA 02653

Other parties who did file briefs:

David Hedberg
(same address)

David C. Dry
388 D Golfview Road
North Palm Beach, FL 33408