

ANDREW PRATT et al.

v.

JOHN R. LONG et al.

Submitted on Briefs November 4, 2008

Decided December 4, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER,
MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Andrew Pratt and Gray Funeral Home, Inc. (collectively, Pratt) appeal from a judgment of the Superior Court (Knox County, *Hjelm, J.*) granting a motion to dismiss for insufficient service of process upon John R. Long, Julie K. Clement, Robert E. Laite Jr., and Robert E. Laite Funeral Home, Inc. (collectively, Long) and dismissing all other motions as moot. Pratt argues that the Superior Court erred when it granted Long's motion to dismiss, and as a result, dismissed as moot Pratt's motions to amend the complaint and to enlarge time to effectuate service. Pratt contends that his inaction amounts to excusable neglect, and that the court did not adequately address his motions to amend the complaint and to enlarge time prior to dismissing them as moot.

Contrary to Pratt's contentions, the Superior Court did not commit an error of law or abuse its discretion when it determined that his inaction failed to constitute excusable neglect, *Dyer Goodall & Federle, LLC v. Proctor*, 2007 ME 145, ¶ 18, 935 A.2d 1123, 1127, nor did it abuse its discretion by dismissing the complaint, *Maguire Construction, Inc. v. Forster*, 2006 ME 112, ¶ 8, 905 A.2d 813, 816. In addition, although the court may have erred in considering Long's dispositive motion to dismiss before considering Pratt's other motions, *see Sherbert v. Remmel*, 2006 ME 116, ¶¶ 7-8, 908 A.2d 622, 624, the additional facts

and arguments set forth in Pratt's motions were insufficient to warrant a finding of good cause with respect to the defective service of process. Therefore, any error by the court was harmless. *See* M.R. Civ. P. 61.

The entry is:

Judgment affirmed.

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