

CLEM BEGIN et al.

v.

DANIEL A. OUELLETTE

Submitted on Briefs May 21, 2009

Decided June 9, 2009

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

#### MEMORANDUM OF DECISION

David A. Ouellette appeals from the Superior Court's (Franklin County, *Murphy, J.*) denial of his motion to stay the issuance of a writ of possession pending his appeal to the Superior Court from a forcible entry and detainer judgment granted in favor of Clem and Rolande Begin by the District Court (Farmington, *Stanfill, J.*). To the extent that Ouellette's interlocutory appeal is cognizable under the "death knell" exception to the final judgment rule, *see In re Estate of Kingsbury*, 2008 ME 79, ¶ 5, 946 A.2d 389, 392, we affirm the Superior Court's denial of the motion to stay. The plain language of both 14 M.R.S. § 6008(2) (2008) and M.R. Civ. P. 80D(j) commit the decision to grant or deny a defendant's motion to stay a writ of possession in this context to the discretion of the Superior Court. Upon expedited review and the consideration of the available record, we discern no abuse of the Superior Court's discretion in its denial of the motion. *See Sager v. Town of Bowdoinham*, 2004 ME 40, ¶ 11, 845 A.2d 567, 570.

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\* Clifford, J. participated in the initial conference but did not participate in the development of the opinion.

The entry is:

Denial of the motion to stay affirmed. The temporary stay of the issuance of the writ of possession pending this appeal is vacated. Mandate to issue immediately.

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