

PETER GASPERINI

v.

DANA BLACKINGTON

Submitted on Briefs September 23, 2010

Decided September 28, 2010

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

MEMORANDUM OF DECISION

Dana Blackington appeals from a judgment of the District Court (Rockland, *Hjelm, J.*) finding for Peter Gasperini on Blackington's counterclaim alleging that the two had formed a partnership requiring dissolution. Contrary to Blackington's contention, the evidence did not compel a finding that in working together in Gasperini's business, he and Gasperini had created an "association of 2 or more persons to carry on as co-owners a business for profit." 31 M.R.S. § 1022(1) (2009); *see Ma v. Bryan*, 2010 ME 55, ¶ 6, 997 A.2d 755, 758 (stating that to succeed in challenging a verdict on appeal, the party with the burden of proof must "establish that [the fact-finder] was *compelled to find* in [his] favor"). Furthermore, the court did not abuse its discretion in excluding, as a sanction for a discovery violation, the admission in evidence or use at trial of a notebook proffered by Blackington. *See Blue Star Corp. v. CKF Props., LLC*, 2009 ME 101, ¶ 40, 980 A.2d 1270, 1280; *Camp Takajo, Inc. v. SimplexGrinnell, L.P.*, 2008 ME 153, ¶ 16, 957 A.2d 68, 73.

The entry is:

Judgment affirmed.

Attorney for Dana Blackington:

Andrews B. Campbell, Esq.
Andrews Bruce Campbell, P.A.
919 Ridge Road
Bowdoinham, Maine 04008

Attorney for Peter Gasperini:

Philip S. Cohen, Esq.
Cohen & Cohen
898 Main Street
PO Box I
Waldoboro, Maine 04572-0910

Rockland District Court docket number CV-2008-92
FOR CLERK REFERENCE ONLY