

ROBERT J. HUBBARD SR.

v.

CHERYL J. CROWELL

Submitted on Briefs April 29, 2010

Decided May 6, 2010

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

#### MEMORANDUM OF DECISION

Robert J. Hubbard Sr. appeals from a judgment entered in the District Court (Belfast, *Worth, J.*) adopting the decision of the family law magistrate (*Mathews, M.*),<sup>1</sup> dismissing his complaint for determination of child support. Contrary to Hubbard's contentions, the magistrate did not err in treating the Department of Health and Human Services as a joined party necessary for just adjudication in the present action. *See Ocwen Fed. Bank v. Gile*, 2001 ME 120, ¶¶ 16, 21, 777 A.2d 275, 281, 282; *see also* M.R. Civ. P. 111(a). Nor did the magistrate err in applying the general statute of limitations, 14 M.R.S. § 752 (2009), instead of applying the statute of limitations related to fraud, 14 M.R.S. § 859 (2009). *See Efstathiou v. Aspinquid, Inc.*, 2008 ME 145, ¶ 17, 956 A.2d 110, 117 (stating that the statute of limitations begins to run when potential plaintiff "discovers that she has a cause of action or when she *should have* discovered it in the exercise of due diligence and ordinary prudence"); *see also Bangor Water Dist. v. Malcolm Pirnie Eng'rs*, 534 A.2d 1326, 1329 (Me. 1988) (stating that fraudulent concealment claim requires "both a concealment and a fraudulent intent or design to prevent discovery of facts giving rise to [the] cause of action" (quotation marks omitted)). Finally,

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<sup>1</sup> As of September 17, 2005, case management officers ceased to exist and became family law magistrates. *See* P.L. 2005, ch. 384 (effective September 17, 2005). Consequently, we employ the title "family law magistrate" in this opinion.

the District Court did not abuse its discretion by declining to hold a hearing on Hubbard's objection to the magistrate's order. *See* M.R. Civ. P. 118(a)(2); *cf.* *Conrad v. Swan*, 2008 ME 2, ¶ 10 n.7, 940 A.2d 1070, 1074 (noting that a court does not abuse its discretion in denying a Rule 118(a)(2) hearing when the record contains sufficient evidence to judge the merits of the objection).

The entry is:

Judgment affirmed.

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**Robert J. Hubbard Sr., pro se:**

Robert J. Hubbard, Sr.  
PO Box 477  
Unity, Maine 04988

**Cheryl Crowell, pro se:**

Cheryl (Crowell) Gould  
750 Bog Road  
Vassalboro, Maine 04989

**The Maine Department of Health and  
Human Services did not file a brief.**