

SUPREME COURT OF THE STATE OF MONTANA

Halloran v. Trex Company, Inc.

2007 MT 91N · No. DA 06-0119 · Decided April 3, 2007

SUMMARY

The Montana Supreme Court affirmed dismissal of Robert L. Halloran’s claims against Trex Company and Sliters Hardware based on a New Jersey class-action settlement and injunction. The court held that Montana was required to give full faith and credit to the New Jersey orders and that Halloran’s claims were subject to the settlement or the New Jersey court’s retained jurisdiction. The court also dismissed Halloran’s negligence claim against the contractor because the complaint failed to adequately plead the elements of negligence.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Montana                                                                                                                                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Chief Justice Karla M. Gray; Justice Brian Morris; Justice John Warner; Justice Jim Rice; Justice James C. Nelson                                                                                                                                                                                                                                                                                    |
| JURISDICTION          | Montana                                                                                                                                                                                                                                                                                                                                                                                              |
| DECIDED               | April 3, 2007                                                                                                                                                                                                                                                                                                                                                                                        |
| DOCKET                | DA 06-0119                                                                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Halloran appealed the Montana District Court's order enforcing a New Jersey Superior Court order that enjoined his Montana claims against Trex and Sliters and dismissed those claims. The Montana Supreme Court also examined its appellate jurisdiction because the district court had not resolved Halloran's negligence claim against Schwartz and had not certified the order under Rule 54(b). |
| STANDARD OF REVIEW    | A district court's grant of a motion to dismiss is reviewed as a conclusion of law to determine whether the court's interpretation and application of the law are correct.                                                                                                                                                                                                                           |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                                                                                                                                                                                                      |
| PARTIES               | Robert L. Halloran v. Trex Company, Inc., Trex Company, LLC, Advantage Building Services, Inc., Robert Schwartz d/b/a Advantage Building Services, Sliters Hardware, Does I to X                                                                                                                                                                                                                     |

## TOPICS

appellate jurisdiction

final judgment rule

motions to dismiss

full faith and credit

res judicata

## PRACTICE AREAS

civil procedure

appellate procedure

constitutional law

consumer protection

construction law

torts

## QUESTIONS PRESENTED

1. Whether the Montana Supreme Court had appellate jurisdiction when the district court dismissed claims against some defendants but left a negligence claim against another defendant unresolved and did not certify the order under Montana Rule of Civil Procedure 54(b).
2. Whether Halloran's purported negligence claim against Schwartz was sufficiently pleaded under Montana Rule of Civil Procedure 8(a).
3. Whether Montana was required to give full faith and credit to the New Jersey Superior Court's orders approving the class-action settlement and enjoining Halloran from pursuing released claims in Montana.
4. Whether Halloran could relitigate the adequacy of notice and personal jurisdiction in Montana after those issues had been considered by the New Jersey Superior Court.
5. Whether Halloran's implied-covenant claim concerning Trex's failure to disclose the settlement was a matter within the New Jersey court's retained jurisdiction.

## HOLDINGS

1. Although the district court's order was not ordinarily a final judgment because Halloran's claim against Schwartz remained unresolved and no Rule 54(b) certification was entered, the Supreme Court could exercise appellate jurisdiction after determining that the remaining negligence claim was not cognizable and dismissing it.
2. Halloran's third cause of action did not plead facts sufficient to establish duty, breach, causation, or damages and therefore could not survive a motion to dismiss for failure to state a claim.
3. Montana was required to give full faith and credit to the New Jersey Superior Court's valid orders approving the class-action settlement and enjoining Halloran from pursuing claims released by that settlement.
4. Halloran could not have the Montana court reconsider whether the New Jersey settlement's notice provisions satisfied due process because the New Jersey court had fully and fairly considered the jurisdictional issue and its determination was entitled to full faith and credit.
5. The Montana District Court correctly determined that it lacked subject matter jurisdiction over Halloran's claim that Trex breached the implied covenant of good faith and fair dealing by failing to disclose the settlement, because the claim related to administration and consummation of the New Jersey settlement over which that court retained continuing jurisdiction.

## KEY QUOTATIONS

*“Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.”*” (§ 22)

*“[W]hen issues of jurisdiction have been determined by one court, the doctrine of res judicata precludes a second court from considering jurisdiction so long as the first court fully and fairly considered the issue.”* (§ 24)

## FACTUAL BACKGROUND

Halloran purchased Trex decking materials from Sliters and had Robert Schwartz install them at his residence. After the decking warped, discolored, and became slippery when wet, Halloran sought replacement costs from Trex. Halloran was a member of a New Jersey class action settlement concerning Trex products but did not timely request exclusion, and he later filed Montana claims concerning the decking, Trex's alleged failure to disclose the settlement, and Schwartz's installation.

## PROCEDURAL HISTORY

Halloran filed a Montana action concerning allegedly defective Trex decking and related conduct. Trex and Sliters moved to enforce the New Jersey class-action settlement order and dismiss the claims; the Montana District Court granted the motion but stated that Halloran could pursue his negligent-installation claim against Schwartz. The Supreme Court concluded that the negligence claim was inadequately pleaded and dismissed it, thereby establishing appellate jurisdiction, and affirmed the dismissal of the claims against Trex and Sliters.

## DISPOSITION

affirmed

## CASES CITED

- Kanefsky v. Trex Co., Inc., No. L-7347-00 (N.J. Super. L. Div.)
- Losleben v. Oppedahl, 2004 MT 5, ¶ 25, 319 Mont. 269, 83 P.3d 1271
- Kunst v. Pass, 1998 MT 71, ¶ 35, 288 Mont. 264, 957 P.2d 1
- Treutel v. Jacobs, 240 Mont. 405, 784 P.2d 915 (1989)
- Rambur v. Diehl Lumber Co., 142 Mont. 175, 382 P.2d 552 (1963)
- Fleenor v. Darby School Dist., 2006 MT 31, ¶ 6, 331 Mont. 124, 128 P.3d 1048
- Baker v. General Motors Corp., 522 U.S. 222, 233, 118 S. Ct. 657, 663-64 (1998)
- Carr v. Bett, 1998 MT 266, ¶ 39, 291 Mont. 326, 970 P.2d 1017
- In re Child Support of Mason, 1998 MT 192, ¶¶ 12, 16, 290 Mont. 253, 964 P.2d 743