

SUPREME COURT OF VERMONT

C. Wayne Clark v. Richard A. DiStefano

195 A.3d 379 (Vt. 2018) · No. 2018-050 · Decided August 10, 2018

SUMMARY

The Vermont Supreme Court affirmed summary judgment for Richard DiStefano in an action by C. Wayne Clark to collect on a witnessed promissory note. The court held that the six-year limitations period for demand notes under 9A V.S.A. § 3-118(b) governed over the fourteen-year period for witnessed promissory notes under 12 V.S.A. § 508, pursuant to 12 V.S.A. § 464.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Robinson, J.; Reiber, C.J.; Skoglund, J.; Eaton, J.; Carroll, J.
JURISDICTION	Vermont
DECIDED	August 10, 2018
DOCKET	2018-050
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the trial court's grant of summary judgment to defendant on statute-of-limitations grounds in an action to collect on a promissory note.
STANDARD OF REVIEW	The Supreme Court reviewed the grant or denial of summary judgment under the same standard as the trial court, viewing the evidence in the light most favorable to the nonmoving party and determining whether any genuine issue of material fact existed and whether the moving party was entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential.
PARTIES	C. Wayne Clark v. Richard A. DiStefano

TOPICS

statutory interpretation uniform commercial code negotiable instruments contracts commercial litigation

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether 9A V.S.A. § 3-118(b)'s six-year limitations period for an action to enforce a demand note applies instead of 12 V.S.A. § 508's fourteen-year limitations period for a witnessed promissory note.
2. Whether 12 V.S.A. § 464 requires an applicable limitations period outside Title 12, Chapter 23 to prevail over a potentially applicable limitations period within that chapter.
3. Whether applying 9A V.S.A. § 3-118(b) to a witnessed demand note improperly repeals 12 V.S.A. § 508 by implication.

HOLDINGS

1. The six-year statute of limitations in 9A V.S.A. § 3-118(b) governs an action to enforce a negotiable demand note, including a witnessed demand note, and therefore Clark's action was untimely.
2. Applying 9A V.S.A. § 3-118(b) does not constitute an improper repeal by implication of 12 V.S.A. § 508 because the result follows from the interpretive directive in § 464, not from a conclusion that the later-enacted UCC provision impliedly repealed § 508.

KEY QUOTATIONS

“Section 464 signals that applicable statutes of limitations outside of Title 12, Chapter 23 trump potentially applicable limitations periods within that chapter.” (¶ 8)

“In both circumstances, § 464 provides that the statute of limitations outside of Chapter 23 of Title 12 prevails.” (¶ 11)

FACTUAL BACKGROUND

In December 2006, DiStefano executed a \$16,500 promissory note payable to Clark upon sixty days' written demand. Clark made written demand in late April or early May 2007, but DiStefano did not pay. Clark filed suit in April 2017, approximately ten years after demand; although DiStefano disputed whether the note was witnessed, the court viewed that fact in Clark's favor for summary-judgment purposes.

PROCEDURAL HISTORY

Clark sued DiStefano in April 2017 to collect on a \$16,500 witnessed promissory note after making a written demand in 2007. The parties filed competing summary-judgment motions concerning whether the six-year limitations period for demand notes under the UCC or the fourteen-year period for witnessed promissory notes applied. The Superior Court denied Clark's motion and granted DiStefano's motion, and the Vermont Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Carter, 2004 VT 21, 176 Vt. 322, 848 A.2d 281

- Department of Taxes v. Murphy, 2005 VT 84, 178 Vt. 269, 883 A.2d 779
- Mier v. Boyer, 124 Vt. 12, 196 A.2d 501 (1963)
- Parent v. Beeman, 138 Vt. 607, 420 A.2d 866 (1980)
- Pike v. Chuck's Willoughby Pub, Inc., 2006 VT 54, 180 Vt. 25, 904 A.2d 1133
- Fleet Nat'l Bank v. Liberty, 2004 ME 36, 845 A.2d 1183

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