

SUPREME JUDICIAL COURT OF MAINE

Arthur J. Greif v. Independent Fabrication, Inc.

2019 ME 142 (2019) · No. Han-19-62 · Decided September 5, 2019

SUMMARY

The Maine Supreme Judicial Court vacated a judgment dismissing Arthur J. Greif's breach-of-warranty complaint as barred by the four-year statute of limitations under 11 M.R.S. § 2-725. The court held that the District Court improperly relied on a deposition outside the pleadings in deciding a motion to dismiss without treating the motion as one for summary judgment, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Mead, J.; Saufley, C.J.; Alexander, J.; Gorman, J.; Jabar, J.; Hjelm, J.
JURISDICTION	Maine
DECIDED	September 5, 2019
DOCKET	Han-19-62
DISPOSITION	vacated
PROCEDURAL POSTURE	Greif appealed the District Court's dismissal of his breach-of-warranty complaint as barred by the statute of limitations. The Supreme Judicial Court reviewed whether the District Court properly considered Greif's deposition in ruling on a motion to dismiss.
STANDARD OF REVIEW	De novo review for errors of law, including review of the grant of a motion to dismiss.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Arthur J. Greif v. Independent Fabrication, Inc.

TOPICS

[motions to dismiss](#) [statute of limitations](#) [pleadings](#) [civil procedure](#) [appellate procedure](#)

PRACTICE AREAS

[Civil procedure](#) [Contract law](#) [Uniform Commercial Code](#) [Appellate procedure](#)

QUESTIONS PRESENTED

1. Whether a court may consider deposition testimony outside the pleadings when ruling on a Rule 12(b) motion to dismiss without the parties' agreement or stipulation.
2. Whether, when matters outside the pleadings are presented and not excluded, the motion must be treated as one for summary judgment with a reasonable opportunity for the parties to present pertinent material.
3. Whether Independent's cross-appeal concerning attorney fees and costs remained justiciable after the dismissal judgment was vacated.

HOLDINGS

1. A court may not consider deposition testimony or other matters outside the pleadings on a motion to dismiss unless an applicable exception applies or the parties clearly agree to submit stipulated facts.
2. When matters outside the pleadings are presented to and not excluded by the court, the court must treat the motion as one for summary judgment and provide the parties a reasonable opportunity to present material pertinent to that motion.
3. The cross-appeal concerning the District Court's denial of attorney fees and costs was non-justiciable after the final dismissal judgment was vacated.

KEY QUOTATIONS

“Under M.R. Civ. P. 12, the affirmative defense of the statute of limitations may be raised by a motion to dismiss if facts giving rise to this defense appear on the face of the summons and complaint.” (¶ 4)

“If matters outside of the plaintiffs’s complaint are presented to and not excluded by the court, the court must treat the motion as one for summary judgment.” (¶ 4)

“The issue should have been considered as a motion for summary judgment with a reasonable opportunity extended to all parties to present material made pertinent to such a motion by M.R. Civ. P. 56.” (¶ 6)

FACTUAL BACKGROUND

Greif ordered a bicycle frame from Independent in June 2013 through Bar Harbor Bike Shop, and Independent promised to build it to specified design requirements. After receiving the frame, Greif determined that it did not conform to those specifications and, following several unsuccessful attempts to cure, returned it seeking a refund. He filed suit in December 2017, alleging revocation of acceptance and breach of warranty.

PROCEDURAL HISTORY

Greif filed a complaint in the Ellsworth District Court in December 2017 alleging breach of warranty concerning a bicycle frame. After initially denying Independent's motion to dismiss, the District Court granted a renewed Rule 12(b) motion based on deposition testimony establishing the date Greif received the frame. The Supreme Judicial Court vacated the dismissal and remanded because the court considered matters outside the pleadings without treating the motion as one for summary judgment or giving the parties a reasonable opportunity to present pertinent material. Independent's cross-appeal concerning attorney fees and costs was dismissed as non-justiciable because no final judgment remained.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the judgment dismissing the complaint and remand for further proceedings. On remand, the District Court must either exclude the deposition and decide the motion based solely on the complaint or treat the motion as one for summary judgment and provide the parties a reasonable opportunity to present material pertinent under Rule 56. The cross-appeal concerning attorney fees and costs is dismissed as non-justiciable.

CASES CITED

- Acadia Res., Inc. v. VMS, LLC, 2017 ME 126, ¶¶ 1, 6-7, 165 A.3d 365
- Andrews v. Sheepscot Island Co., 2016 ME 68, ¶ 2, 138 A.3d 1197
- Lawson v. Willis, 2019 ME 36, ¶ 7, 204 A.3d 133
- Kasu Corp. v. Blake, Hall & Sprague, Inc., 540 A.2d 1112, 1113 (Me. 1988)
- Francis v. Stinson, 2000 ME 173, ¶ 56, 760 A.2d 209
- Moody v. State Liquor & Lottery Comm'n, 2004 ME 20, ¶¶ 8, 10-12, 843 A.2d 43
- Ironshore Specialty Ins. Co. v. United States, 871 F.3d 131, 135-36 (1st Cir. 2017)
- Global Tower Assets, LLC v. Town of Rome, 810 F.3d 77, 88-89 (1st Cir. 2016)
- Estate of Robbins v. Chebeague & Cumberland Land Trust, 2017 ME 17, ¶ 2 & n.2, 154 A.3d 1185
- Chiapetta v. Clark Assocs., 521 A.2d 697, 700-01 (Me. 1987)
- Me. Mun. Emps. Health Trust v. Maloney, 2004 ME 51, ¶ 5, 846 A.2d 336