

SUPREME JUDICIAL COURT OF MAINE

Dyer Goodall and Federle, LLC v. Proctor, 2007 ME 145

935 A.2d 1123 (2007) · Decided November 27, 2007

SUMMARY

The Maine Supreme Judicial Court affirmed a default judgment against Samuel G. Proctor Jr. for failing to timely answer a law firm's complaint and counterclaim. The court held that Proctor did not demonstrate excusable neglect and that the Superior Court properly proceeded with the matter despite the improvident removal from the District Court.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Alexander, J.; Saufley, C.J.; Clifford, J.; Levy, J.; Silver, J.; Mead, J.
JURISDICTION	Maine
DECIDED	November 27, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Proctor appealed from a Superior Court judgment denying his motions to enlarge the time to answer and to enlarge the time for removal, dismissing his untimely answer and counterclaim, and entering a default judgment for Dyer Goodall and Federle, LLC.
STANDARD OF REVIEW	Determinations of excusable neglect are reviewed for errors of law or abuse of discretion.
PRECEDENTIAL VALUE	Published precedential decision of the Supreme Judicial Court of Maine
PARTIES	Samuel G. Proctor, Jr. v. Dyer Goodall and Federle, LLC

TOPICS

default judgment default civil procedure appellate procedure standard of review

PRACTICE AREAS

civil procedure appellate procedure contracts

QUESTIONS PRESENTED

1. Whether the Superior Court applied the correct standard in determining that Proctor failed to show excusable neglect for filing his answer late.
2. Whether the Superior Court was required to consider a meritorious defense and prejudice under the good-cause standard for setting aside a default.
3. Whether the Superior Court erred by reaching the merits after finding that the transfer from the District Court was an improvident removal and stating that the matter should be remanded.

HOLDINGS

1. A party seeking to enlarge the time to answer after the deadline has passed must demonstrate excusable neglect under M.R. Civ. P. 6(b)(2), and Proctor's vacation, other business, and failure to bring his files with him did not constitute excusable neglect.
2. Even if Proctor's appeal were construed as a motion to set aside a default under M.R. Civ. P. 55(c), he could not establish good cause because he lacked a good excuse for his untimeliness; therefore, the default judgment was proper.
3. The Superior Court properly reached the merits despite characterizing the transfer from the District Court as an improvident removal because the Superior Court had concurrent jurisdiction and Proctor had requested that it assume jurisdiction and decide the matter.
4. Because the answer and counterclaim were dismissed on procedural grounds as untimely, they were of no force and effect in deciding the motion for default judgment, and the dismissal was without prejudice rather than with prejudice.

KEY QUOTATIONS

"Excusable neglect will be found only when there are extraordinary circumstances that work an injustice."
(1127)

"The press of other business does not absolve parties from complying with procedural rules." (1127)

FACTUAL BACKGROUND

Dyer Goodall and Federle, LLC sought \$949.60 from Proctor for legal services relating to his Matinicus Island real estate. Proctor was served with the complaint and summons on March 16, 2006, while briefly home in New Hampshire, then returned to Florida. He filed his answer and a \$203,500 counterclaim fifty-four days after service, more than a month after the twenty-day deadline. Proctor explained that he was on vacation and had not taken his files with him, although he acknowledged having access to mail and telephone service and the ability to request additional time.

PROCEDURAL HISTORY

Dyer Goodall and Federle, LLC filed a District Court complaint seeking \$949.60 for unpaid legal services. Proctor was served in New Hampshire but filed his answer and counterclaim fifty-four days after service. He then sought removal to the Superior Court and an enlargement of the relevant deadlines. The Superior Court

denied the enlargement motions, dismissed the answer and counterclaim as untimely, entered default judgment, and concluded that the removal was improvident. The Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- Gregory v. City of Calais, 2001 ME 82, 771 A.2d 383 (2001)
- Uotinen v. Hall, 636 A.2d 991 (Me. 1994)
- Solomon's Rock Trust v. Davis, 675 A.2d 506 (Me. 1996)
- Begin v. Jerry's Sunoco, Inc., 435 A.2d 1079 (Me. 1981)
- Estate of Gordan, 2004 ME 23, 842 A.2d 1270 (2004)

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