

Plaintiffs-Russell Pierce, Esq.
Defendant-Brent A Singer, Esq.

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STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-16-313

HEARTS WITH HAITI, INC.,
and MICHAEL GEILENFELD,

Plaintiffs

v.

ORDER ON PLAINTIFFS' MOTION
FOR PARTIAL JUDGMENT ON THE
PLEADINGS

PAUL KENDRICK,

Defendant

Before the court is plaintiffs' motion for partial judgment on the pleadings. Plaintiffs ask the court to enter judgment in their favor against defendant on counts I, II, and III of the complaint. For the following reasons, the motion is denied.

FACTS

According to plaintiffs' complaint, plaintiff Michael Geilenfeld is a U.S. citizen who founded St. Joseph's Home for Boys, which provides full-time residence and schooling to disadvantaged Haitian children in Haiti. (Pls.' Compl. ¶¶ 6, 8-13.) Plaintiff Hearts with Haiti is a North Carolina nonprofit corporation that organizes fundraising and mission trips to support St. Joseph's Home for Boys, among other organizations. (Id. ¶¶ 5, 40-46.) Defendant is a resident of Freeport, Maine. (Id. ¶ 7.)

Beginning in January 2011, through blogs, websites, radio broadcasts, and hundreds of emails, defendant allegedly published to third parties, defamatory statements that plaintiffs were sexually abusing Haitian children. (Id. ¶¶ 48-88.) Plaintiffs allege that defendant's statements

have harmed plaintiffs' reputation and have caused pecuniary loss as a result of decreased support from plaintiffs' benefactors. (Id. ¶¶ 89-101.)

On February 6, 2013, plaintiffs filed a complaint in the United States District Court for the District of Maine. In the complaint, plaintiffs alleged: count I, defamation; count II, false light; count III, tortious interference with advantageous relationships; and count IV, punitive damages. On July 23, 2015, a jury found in favor of plaintiffs on their defamation, false light, and tortious interference claims and awarded plaintiffs \$14.5 million in damages. Plaintiffs subsequently withdrew their punitive damages claim.

On November 18, 2015, defendant appealed to the First Circuit. On January 12, 2016, defendant filed a motion to dismiss in the District Court, arguing that the District Court lacked subject matter jurisdiction because U.S. citizens who are domiciled abroad are "stateless" and unable to invoke the court's diversity jurisdiction. On February 16, 2016, the First Circuit remanded to the District Court to determine whether diversity jurisdiction existed at the time plaintiffs commenced suit. The District Court held a hearing on the jurisdictional issue on March 30, 2016. On June 20, 2016, the District Court granted defendant's motion to dismiss, finding that plaintiff Geilenfeld was domiciled in Haiti at the time plaintiffs commenced suit. Hearts with Haiti, Inc. v. Kendrick, 2:13-cv-00039-JAW, 2016 U.S. Dist. LEXIS 79620, at *59 (D. Me. June 20, 2016). On June 24, 2016, plaintiffs filed an appeal, which remains pending.

Plaintiffs filed a complaint in this court on August 12, 2016. In the complaint, plaintiffs alleged: count I, defamation; count II, false light; count III, tortious interference with advantageous relationships; and count IV, infliction of emotional distress. Defendant filed an answer on October 3, 2016. Plaintiffs allege that defendant has continued to make defamatory statements against them since the July 23, 2015 verdicts. (Pls.' Compl. ¶¶ 134-141.)

Plaintiffs filed their motion for partial judgment on the pleadings on October 7, 2016. Defendant opposed the motion on October 26, 2016. Plaintiffs filed a reply on November 9, 2016. On October 3, 2016, defendant filed a motion to stay, which the court granted on November 18, 2016.

DISCUSSION

1. Standard of Review

Any party may move for judgment on the pleadings after the pleadings are closed. M.R. Civ. P. 12(c). “A motion for judgment on the pleadings filed by the plaintiff tests the legal sufficiency of the affirmative defenses set forth in the defendant’s answer.” Cunningham v. Haza, 538 A.2d 265, 267 n.2 (Me. 1988). As a result, it “can be effective only when the sole defense is an affirmative one, because any denials of fact by defendant will be taken as true for purposes of the motion and thus will have to be tried.” Faith Temple v. DiPietro, 2015 ME 166, ¶ 27, 130 A.3d 368; see also 2 Harvey & Merritt, Maine Civil Practice, § 12:14 at 430 (2d ed. 2011). If the court considers matters outside the pleadings, the motion is treated as one for summary judgment. M.R. Civ. P. 12(c). The court may, however, consider official public documents, documents that are central to the claim, and documents referred to in the complaint without converting the motion into a motion for summary judgment. Moody v. State Liquor & Lottery Comm’n, 2004 ME 20, ¶ 10, 843 A.2d 43.

2. Motion for Partial Judgment on the Pleadings

Plaintiffs argue that the doctrine of issue preclusion prevents defendant from relitigating issues that were determined in the federal action, despite the fact that the federal action was dismissed, because issue preclusion requires only a final judgment, not a valid final judgment. (Pls.’ Mot. Partial J. Pleadings 7-16.) In support of their argument, plaintiffs cite several Law

Court cases that omit the word “valid” when reciting the elements of issue preclusion, while including the word “valid” in the elements of claim preclusion. See Portland Water Dist. v. Town of Standish, 2008 ME 23, ¶¶ 8-9, 940 A.2d 1097 (issue preclusion prevents relitigation if issue determined by “prior final judgment”; claim preclusion prevents relitigation if “valid final judgment” was entered); Fiduciary Trust Co. v. Wheeler, 2016 ME 26, ¶ 10, 132 A.3d 1178 (same); Penkul v. Matarazzo, 2009 ME 113, ¶ 7, 983 A.2d 375 (same); Machias Sav. Bank v. Ramsdell, 1997 ME 20, ¶ 11, 689 A.2d 595 (same).

The omission of the word “valid” cannot be read as the Law Court’s tacit approval of applying issue preclusion to issues determined by invalid judgments. Such an interpretation would be inconsistent with the established principle that issue preclusion requires a valid final judgment. See Restatement (Second) of Judgments ¶ 27 (1982) (“When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.”). Maine cases follow section 27 of the Restatement (Second) of Judgments and require a valid, final judgment. See Town of North Berwick v. Jones, 534 A.2d 667, 669 (Me. 1987); Colquhoun v. Webber, 505 A.2d 794, 795 (Me. 1986).

A judgment issued by a court that lacks subject matter jurisdiction is not a valid judgment. See Boyer v. Boyer, 1999 ME 128, ¶ 6, 736 A.2d 273 (“A judgment is void and must be vacated if the court issuing the judgment lacks subject matter jurisdiction.”); Restatement (Second) of Judgments § 1 (1982) (“A court has authority to render judgment in an action when the court has jurisdiction of the subject matter of the action . . .”). The District Court lacked subject matter jurisdiction because plaintiff Geilenfeld is a U.S. citizen who was domiciled

abroad at the time plaintiffs commenced suit. Hearts with Haiti, Inc., 2016 U.S. Dist. LEXIS 79620, at *59. As a result, the District Court's judgment is not a valid final judgment.

Further, even if issue preclusion required only a final judgment, no final judgment exists. See Restatement (Second) of Judgments § 13 cmt. f. (1982) ("The judgment ceases to be final if it is in fact set aside by the trial court . . ."). The July 23, 2015 verdicts were set aside by the District Court's dismissal on June 20, 2016. See Hearts with Haiti, Inc., 2016 U.S. Dist. LEXIS 79620, at *59. As a result, the District Court's judgment is neither valid nor final, and any issues determined in the District Court are not entitled to preclusive effect.

CONCLUSION

Issue preclusion does not apply to any issues determined in plaintiffs' case in the District Court because the District Court's judgment is neither valid nor final.

The entry is

Plaintiffs' Motion for Partial Judgment on the Pleadings is DENIED.

Date: January 10, 2017


Nancy Mills
Justice, Superior Court

STATE OF MAINE
Cumberland ss. Clerk's Office

JAN 11 2017

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