

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 MOTIONS

PAUL KENDRICK,

Defendant

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APR 9 '18 PM2:38

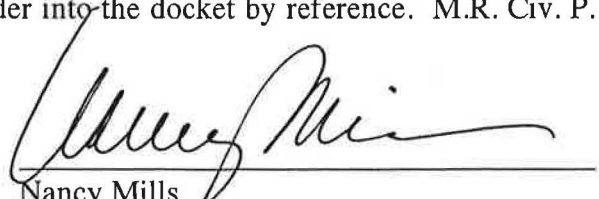
After telephone conference on the record, the court orders the following.

1. Plaintiffs' motion for trial court action pending interlocutory appeal is denied. This case is stayed pending resolution of defendant's interlocutory appeal of the court's order on defendant's special motion to dismiss. See M.R. App. P. 3(c)(4); 14 M.R.S. 556 (2017); Schelling v. Lindell, 2008 ME 59, ¶ 8, 942 A.2d 1226.
2. Plaintiffs' motion for protection from harassment order is denied.
3. Defendant's motion to quash subpoena served on RBC Capital Markets, LLC, d/b/a RBC Wealth Management is granted.
4. Plaintiffs' motion to extend time to file notice of appeal is denied. See M.R. App. P. 2B(d); Viles v. Town of Embden, 2006 ME 107, ¶ 13, 905 A.2d 298. Plaintiffs do not address the good cause requirement in rule 2B(6). See Mirpuri v. ACT Mfg., 212 F.3d 624, 630 (1st Cir. 2000) (discussing Fed. R. App. P. 4). Instead, they rely on the exceptions to the final judgment rule. See e.g., Forest Ecology Network v. Land Use Regulation Comm'n, 2012 ME 36, ¶ 17, 39 A.3d 74; United States, Dep't of Agric., Rural Hous. Serv. v. Carter, 2002 ME 103, ¶¶ 7-8, 799 A.2d 1232; In re Bailey M., 2002 ME 12, ¶ 7, 788 A.2d 590.

The clerk is directed to incorporate this order into the docket by reference. M.R. Civ. P.

79(a).

Date: April 9, 2018


Nancy Mills
Justice, Superior Court

STATE OF MAINE
CUMBERLAND, ss

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

HEARTS WITH HAITI, INC.,

and

MICHAEL GEILENFELD,

Plaintiffs

ORDER ON DEFENDANT'S
SPECIAL MOTION TO DISMISS

v.

STATE OF MAINE
Cumberland Co. Clerk's Office

PAUL KENDRICK,

FEB 20 2018 9:25AM

Defendant

RECEIVED

Before the court is defendant Paul Kendrick's Special Motion to Dismiss filed pursuant to 14 M.R.S. § 556 (2017). For the following reasons, defendant's 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 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, defendant allegedly published to third parties, through blogs, websites, radio broadcasts, and hundreds of emails, defamatory statements that plaintiffs were sexually abusing Haitian children and supporting child sexual abuse. (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.)

Defendant fashions himself as a longtime volunteer and advocate who seeks to protect children and bring perpetrators of sexual abuse to justice. (Kendrick Aff. ¶¶ 3-10.) In January, 2011, defendant alleges he received information that plaintiff Geilenfeld had sexually abused Haitian children who were under his care. (Kendrick Aff. ¶ 13.) Defendant then conducted his own research and alleges he found multiple victims of Geilenfeld's sexual abuse. (Kendrick Aff. ¶¶ 14-16.) After reaching out to, and receiving no assistance from, Hearts with Haiti officials, defendant began to speak publicly about the purported sexual abuse. (Kendrick Aff. ¶¶ 17-18.) Defendant claims that all of his public statements were made solely for the purpose of raising public awareness of the allegations in the hope that the public would pressure law enforcement agencies to investigate the plaintiffs. (Kendrick Aff. ¶¶ 24, 27-28.)

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, 192 F. Supp. 3d 181, 204 (D. Me. 2016). On April 27, 2017, the First Circuit affirmed the District Court's judgment dismissing the action for lack of federal subject-matter jurisdiction. Hearts with Haiti, Inc. v. Kendrick, 856 F.3d 1, 4 (1st. Cir. 2017).

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, intentional infliction of emotional distress. Defendant filed an answer on October 3, 2016. On November 18, 2016, all proceedings were stayed. On October 20, 2017, the stay was lifted. On October 25, 2017, plaintiffs filed an amended complaint and alleged count V, negligent infliction of emotional distress. Plaintiffs allege that defendant has continued to make defamatory statements against them since the July 23, 2015 verdicts. (Pls.' Compl. ¶¶ 134-141; Pls.' Am. Compl. ¶¶ 169-173.)

TIMELINESS OF THE SPECIAL MOTION TO DISMISS

Plaintiffs argue that defendant's motion should be denied because he did not file his motion within the sixty-day period set by statute, see 14 M.R.S. § 556; failed to request permission to file his motion late; and did not provide a valid reason for the delay in filing.

A special motion to dismiss "may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms the court determines proper." 14 M.R.S. § 556. After the sixty-day period has elapsed, a court "has broad discretion in determining whether, consistent with the purposes of the anti-SLAPP statute, a party may file a special motion to dismiss." Bradbury v. City of Eastport, 2013 ME 72, ¶ 14, 72 A.3d 512.

Defendant acknowledged service of the complaint on August 31, 2016. Defendant filed a motion to stay the proceedings on October 3, 2016 and, on October 7, 2016, plaintiffs filed a

motion for partial judgment on the pleadings. The section 556 sixty-day filing period elapsed on October 30, 2016, while defendant's motion to stay was pending. The court granted defendant's motion to stay on November 18, 2016. Defendant filed the special motion to dismiss on October 16, 2017. The stay was lifted on October 20, 2017.¹ Plaintiffs' amended complaint was filed on October 25, 2017. Defendant's motion to extend the deadline to answer plaintiffs' first amended complaint pending decision on defendant's special motion to dismiss was granted without objection on November 2, 2016.

Considering this procedural posture, the court allows the late filing of defendant's special motion to dismiss. See Bradbury, 2013 ME 72, ¶¶ 15, 18, 72 A.3d 512.

STANDARD OF REVIEW

The Law Court has prescribed a three-step burden-shifting analysis to determine whether special motions to dismiss brought pursuant to 14 M.R.S. § 556 should be granted. See Gaudette v. Davis, 2017 ME 86, ¶¶ 16-22, 160 A.3d 1190. In the first step, the moving party, here the defendant, bears the initial burden to show that the claims against him are based on his exercise of the right to petition pursuant to the federal or state constitutions. Id. ¶ 16. Whether the defendant's actions constitute petitioning activity is a question of law. Id. If the defendant does not establish that his complained of actions constitute petitioning activities, the court must deny the special motion to dismiss. Id.

Once the defendant establishes that he was engaged in a petitioning activity, the burden shifts to the plaintiff "to establish, through pleadings and affidavits, prima facie evidence that the defendant's petitioning activity was devoid of any reasonable factual support or any arguable basis

¹ Gaudette v. Davis was decided on May 9, 2017. See Gaudette v. Davis, 2017 ME 86, ¶ 14, 160 A.3d 1190.

in law and that the defendant’s petitioning activity caused actual injury to the plaintiff.” Id., ¶ 17 (citing Nader v. Me. Democratic Party, 2012 ME 57, ¶¶ 16, 29-38, 41 A.3d 551) (internal quotation marks omitted). “If the plaintiff fails to meet any portion of this prima facie burden—either by the absence of the minimum amount of evidence on either element or based on some other legal insufficiency—the special motion to dismiss must be granted” Id. (internal citations omitted).

The third and final step is reached if the plaintiff meets his prima facie burden for any of the defendant’s petitioning activities. Id., ¶ 18. In the third step, the parties engage in a brief period of limited discovery after which the court conducts an evidentiary hearing. Plaintiff must establish, by a preponderance of the evidence, that the defendant’s petitioning activity was devoid of factual support or an arguable legal basis and that the petitioning activity caused the plaintiff actual injury. Id. “Neither discovery nor the hearing may address any petitioning activity for which the plaintiff’s prima facie burden was not met.” Id., ¶ 20.

ANALYSIS

I. Do Defendant’s Actions Constitute Petitioning Activities?

Section 556 broadly defines the exercise of the right to petition as:

Any written or oral statement made before or submitted to a legislative, executive or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive, or judicial body, or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any statement falling within the constitutional protection of the right to petition government.

14 M.R.S. § 556 (2017); see also Schelling v. Lindell, 2008 ME 59, ¶ 14, 942 A.2d 1226. Because the Legislature intended to define very broadly the statements covered by section 556, the Law Court construes liberally the meaning of petitioning activity. See Schelling, 2008 ME 59, ¶ 12,

942 A.2d 1226. The Law Court has held that the right to petition includes the following: making statements to the sheriff's office about a town official's alcohol use, *see Desjardins v. Reynolds*, 2017 ME 99, ¶¶ 2, 11, 162 A.3d 228; making public statements about a police officer's alleged sexual abuse made to "inform an ongoing public discussion and investigation into allegations of sexual abuse of minors by members of the Biddeford Police Department," *see Gaudette*, 2017 ME 86, ¶ 23, 160 A.3d 1190; authoring a defamatory letter to the editor of a newspaper regarding a recent bill in the state legislature, *see Schelling*, 2008 ME 59, ¶¶ 3, 14, 942 A.2d 1226; and making statements to the press regarding a contract dispute on a public construction project, *see Maietta Const., Inc. v. Wainwright*, 2004 ME 53, ¶¶ 2-4, 847 A.2d 1169.

In this case, plaintiff argues that defendant's conduct should not be considered petitioning activities because many statements made to convince others not to do business with plaintiffs and to motivate speech by others are not an effort to influence government action; defendant was not petitioning government on his own behalf and is therefore not protected by section 556; defendant's statements made to urge alleged victims to contact a lawyer are not petitioning activity; cyber bullying, threats, and harassment directed at plaintiffs are not petitioning activity, and efforts to encourage the Haitian government to take action against plaintiffs are not petitioning activity. Plaintiff argues Maine's statute is nearly identical to the Massachusetts statute and relies on cases decided by the Massachusetts Supreme Court. (Pls.' Mem. 6, 8, 11-13, 16.)

Defendant argues that his conduct constitutes petitioning activities because he was either making statements to law enforcement authorities in order to encourage a criminal investigation of the plaintiffs, making statements in connection with an ongoing investigation of the plaintiffs, or because the statements were reasonably likely to enlist public participation in an effort to effect

such an investigation. Defendant argues his statements are similar to those made by the defendants in Schelling and Gaudette.

In Schelling, the defendant, a representative in the Maine legislature, wrote a letter that was published in a newspaper and which accused another legislator of supporting a recently enacted law in order to “garner special status for her own business.” Schelling, 2008 ME 59, ¶ 3, 942 A.2d 1226. The Law Court held that the defendant’s letter was “reasonably likely to enlist public participation” in an effort to effect consideration of an issue by a government body because it was “designed to expand the public consideration of a controversial issue recently considered by the Legislature.” Id. ¶ 13. Regarding the fact that the letter did not refer to any pending matter before the legislature, the Law Court clarified that the right of petition is not “limited to speech concerning issues currently awaiting specific action before a public body.” Id. ¶ 14. Instead, the right to petition extends to “statements that may have the effect of bringing an issue not currently under consideration into consideration or review by any governmental body.” Id.

In Gaudette, the Law Court affirmed the Superior Court’s conclusion that the defendant was engaged in a petitioning activity when he made statements, consisting of a newspaper article and a letter read at a public forum, suggesting that a former police officer had committed sexual abuse while at the Biddeford Police Department and that an Assistant Attorney General had engaged in a cover-up. Gaudette, 2017 ME 86, ¶¶ 2, 23, 160 A.3d 1190. The Superior Court concluded that the statements were petitioning activities because they were made as part of “an effort to criticize the handling of the investigation by the Biddeford P.D., and thus encourage review or consideration of current leadership at the Department.” Gaudette v. Davis, No. CV-15-97, 2015 Me. Super. LEXIS 229, at *9 (Oct 26, 2015). In reaching this conclusion, the Superior

Court expressly rejected the plaintiff's argument that defendant's acts were not petitioning activities because he was not petitioning on his own behalf. Id. at *10-11.

In this case, many of defendant's acts fit within the broad definition of petitioning activities. Defendant made the statements and engaged the public through radio broadcasts and internet websites in an effort to raise awareness about alleged sexual abuse and encourage law enforcement to investigate the plaintiffs. As in Schelling, defendant was attempting to expand the public consideration of an important societal issue. See Schelling, 2008 ME 59, ¶ 13, 942 A.2d 1226; Fortin v. Roman Catholic Bishop of Portland, 2005 ME 57, ¶ 67, 871 A.2d 1208 ("In matters concerning the protection of children from physical and sexual abuse, societal interests are at their zenith"). Defendant had been successful in a similar campaign that led to the prosecution of the director of a boarding school in Haiti for sexual abuse. (Kendrick Aff. ¶¶ 7, 11-12.) It is reasonable to infer he believed the same tactics could once again lead to government action.

Not all of defendant's actions, however, can be considered petitioning activity. Many actions and statements were not made for the purpose of enlisting public participation to obtain redress from the government but were, instead, made for the purpose of pressuring donors and organizations to refrain from doing business with plaintiffs or organizations associated with them. Other actions and statements about plaintiff were published to third parties through blogs, public websites, radio, and emails. See e.g. (Pl.'s Compl. ¶¶ 49-54, 62-81, 87-88, 104, 110-11, 114, 135-39; Pls.' Am. Compl. ¶¶ 169, 171, 173.) In these statements, defendant does not ask the recipients to contact a legislative, executive or judicial body, or take any action beyond terminating their business or philanthropic relationship. In some statements, defendant does not request any action from the recipient of his message. See e.g., (Pls.' Compl. ¶ 64.) Further, unlike in Schelling and Gaudette, many of defendant's statements were not publicized through broadly accessible media

forums, such as newspapers or radio, but were instead issued to discreet groups of individuals and organizations through email. Such statements cannot be considered “reasonably likely to enlist public participation in an effort to effect” consideration or review of the alleged abuse. See Bruno v. Corrado, No. CV-14-429, 2015 Me. Super. LEXIS 140, at *9 (Mar. 31, 2015); Clay Corp. v. Colter, No. CV2012-01138, 2012 Mass. Super. LEXIS 308, at *9-10 (Dec. 11, 2012) (interpreting Mass. Gen. Laws ch. 231, § 59H, the Massachusetts substantively similar anti-SLAPP statute); Defendant has not met his burden to establish the plaintiff’s claims are based on petitioning activities alone. See Gaudette, 2017 ME 86, ¶ 16, 160 A.3d 1190.

The entry is

Defendant’s Special Motion to Dismiss is DENIED.

Date: February 15, 2018



Nancy Mills
Justice, Superior Court

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

MCV ✓

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

RECEIVED