

STATE OF MAINE
CUMBERLAND, ss

CLERK'S OFFICE
SUPERIOR COURT
CIVIL ACTION
DOCKET NO. RE-08-37
2009 SEP 28 A 9:41

JEFFREY BORNEMAN
Plaintiff

v.

RICHARD BORNEMAN
Defendant

ORDER ON DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

This suit originated when Plaintiff Jeffrey Borneman filed a Complaint for Partition of a camp in Bridgton, Maine against his brother, Defendant Richard Borneman on February 11, 2008. Jeffrey and Richard each own a portion of the camp and are the only persons claiming a recorded interest in the property. The parties entered into a Settlement Agreement on August 23, 2008, which was accepted by the court on September 2, 2008.

Before the court is Richard Borneman's Motion for Summary Judgment on the claim that Jeffrey Borneman breached the terms of their Settlement Agreement. The Agreement required Jeffrey to pay Richard \$92,500 within 90 days of August 23, 2008, and required Richard to deliver to Jeffrey a quitclaim deed with warranty conveying to Jeffrey Richard's share of the property.

Richard claims that the Agreement was breached and requests the court to order specific performance of the Agreement plus interest and costs. In his Opposition to the Motion for Summary Judgment, Jeffrey claims that he did not breach the Agreement, and that Richard interfered with his ability to perform the Agreement by interfering with the sale of the property and by refusing to execute a deed to Jeffrey to enable Jeffrey to finance the property and meet his obligations under the Agreement.

Summary judgment can only be granted when there are no genuine disputes as to any material fact and the movant is entitled to judgment as a matter of law. M.R. Civ. P. 56(c). A contested fact is "material" if it could potentially affect the outcome of the suit under the governing law. *Inkel v. Livingston*, 2005 ME 42, ¶ 4, 869 A.2d 745, 747. A fact is "genuine" if there is sufficient evidence supporting the claimed fact to require a fact-finder to choose between competing versions of facts at trial. *Id.* For the purposes of summary judgment, factual disputes and ambiguities must be resolved against the movant. Genuine issues of material fact exist regarding whether Richard interfered with Jeffrey's ability to perform the Agreement.

Therefore, the entry is:

Defendant's Motion for Summary Judgment is DENIED.

Dated at Portland, Maine this 28th day of September, 2009.



Robert E. Crowley
Justice, Superior Court

09/28/2009

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PAGE A - ATTORNEY BY CASE VIEW

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JEFFREY BORNEMAN VS RICHARD H BORNEMAN

UTN:AOCSSr -2008-0016570

CASE #:PORSC-RE-2008-00037

SEL VD	REPRESENTATION TYPE	DATE
01 0000002382 ATTORNEY:AUDI FFRED, JAMES ADDR:374 MAIN STREET PO BOX 1005 SACO ME 04072 F FOR:JEFFREY BORNEMAN	PL	RTND 02/14/2008
02 0000007075 ATTORNEY:KAYNOR, PETER ADDR:95 CONGRESS ST PO DRAWER L RUMFORD ME 04276 F FOR:RICHARD H BORNEMAN	DEF	RTND 02/19/2008

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