

STATE OF MAINE
KENNEBEC, ss

DISTRICT COURT AUGUSTA
CIVIL ACTION
DOCKET NO. CV-07-274
MA - KEN - 12712009

IDA BOUCHARD,

Plaintiff

v.

JUDGMENT

RICHARD and JEAN
PARENT,

Defendants

Jury-waived trial was held on the plaintiff's claim for unjust enrichment¹ against the defendants and on defendant Richard Parent's cross-claim. For the following reasons, judgment is entered in favor of defendants Richard Parent and Jean Parent on count II of the plaintiff's complaint and in favor of defendant Jean Parent on defendant Richard Parent's cross-claim.

Findings

On May 28, 1994, the defendants, then married, contemplated purchasing jointly a campground in North Monmouth for \$725,00.00. The defendants discussed that they did not have the money for the down payment and agreed to borrow the money from the plaintiff, Richard Parent's mother. At the end of April or early May 1994, defendant Richard Parent discussed with the plaintiff the defendants' need to borrow money. The plaintiff consented to the withdrawal of the money from her credit union

¹ Defendant Jean Parent's motion for summary judgment on the breach of contract claim was granted by order dated May 12, 2008.

account. The account was held jointly with defendant Richard Parent in case anything happened to her; he did not contribute any money to the account.

The down payment for the campground was \$200,000.00. The sellers, the Boyces, took a note for \$100,000.00; the defendants used personal funds of approximately \$33,000.00 and borrowed \$67,400.00 from the plaintiff.

The parties agreed that when the defendants had funds or when the plaintiff needed money, the \$67,400.00 would be repaid. No time limits for repayment were set and no interest was charged. The agreement was not reduced to writing. The money was not a gift to the defendants.

At the closing on the campground, defendant Richard Parent endorsed the credit union check to the sellers. (Pl.'s Ex. 1.) After the closing, the defendants formed a corporation and transferred the assets of the campground to the corporation. Defendant Richard Parent managed the campground until it was sold in November 2003 for \$1,200,000.00 to his stepson, Jason Campbell. The defendants received \$500,000.00 from the sale of the campground. After payment of a mortgage, they retained \$250,000.00. Rather than paying the plaintiff, the defendants took a trip to Alaska and bought a house in Florida. The plaintiff's complaint was filed on August 9, 2007.

During the period from 1994 until 2003, the plaintiff asked defendant Richard Parent how the defendants were doing financially and reminded him that at some point, she would like to be repaid the money she had loaned to the defendants. The defendants were not able to repay the money during that time period. The defendants never discussed between themselves that the money from the plaintiff was a gift and did not have to be repaid. (Pl.'s Ex. 2.)

Defendant Richard Parent retired in November 2003. He and defendant Jean Parent separated in April 2005 and divorced in February 2007. The divorce judgment provides that the defendants are jointly liable for the \$67,400.00 borrowed from the plaintiff. (Def. Jean Parent's Ex. 3.) None of the \$67,400.00 has been repaid.

Although defendant Jean Parent alleges she had no knowledge of the loan and never discussed repayment with defendant Richard Parent or the plaintiff, defendant Jean Parent acknowledged the loan on a post-it attached to the stub for the \$67,400.00 check. (Pl.'s Ex. 2.) The debt to the plaintiff does not appear on the personal financial statement prepared in February 2004. (Def. Jean Parent's Ex. 1.) That statement was prepared and signed by defendant Jean Parent. Defendant Richard Parent did not see the statement until his divorce proceedings.

Conclusions

Both defendants borrowed \$67,400.00 from the plaintiff with the understanding the money would be repaid when they had the ability to do so or when the plaintiff needed the money. This was a contract, supported by sufficient consideration. Restatement (Second) of Contracts § 71 (1979). A claim for unjust enrichment lies only when the parties have not entered a contract. In re Wage Payment Litig. v. Wal-Mart Stores, Inc., 2000 ME 162, ¶ 19, 759 A.2d 217, 224. The plaintiff's claim for breach of contract is barred by the statute of limitations. See Order dated May 12, 2008.

The defendants used the plaintiff's money to buy a campground, which they later sold at a profit. Although the defendants had the ability to repay the plaintiff in 2003, when they sold the campground, they failed to do so. Because of the passage of time, however, the defendants cannot be compelled to repay their contractual obligation to the plaintiff.

The entry is

Judgment is entered in favor of Defendants Richard Parent and Jean Parent and against the Plaintiff on Count II of the Plaintiff's Complaint.

Judgment is entered in favor of Defendant Richard Parent and against Defendant Jean Parent on the Defendant Jean Parent's Cross-claim.

Date: August 27, 2009



Nancy Mills
Justice, Superior Court

IDA BOUCHARD - PLAINTIFF
14 BOUCHARD LANE
FARMINGDALE ME 04344
Attorney for: IDA BOUCHARD
WADE A RILEY - RETAINED 08/09/2007
FARRIS FOLEY & DICK
88 WINTHROP STREET
AUGUSTA ME 04330

DISTRICT COURT
AUGUSTA
Docket No AUGDC-CV-2007-00274

DOCKET RECORD

vs
JEAN PARENT - DEFENDANT

,
Attorney for: JEAN PARENT
DAVID LIPMAN - RETAINED
LIPMAN & KATZ & MCKEE, PA
227 WATER STREET
PO BOX 1051
AUGUSTA ME 04332-1051

RICHARD PARENT - DEFENDANT
PO BOX 189,
MANCHESTER ME 04351

Filing Document: COMPLAINT
Filing Date: 08/09/2007

Minor Case Type: CONTRACT

Docket Events:

08/09/2007 FILING DOCUMENT - COMPLAINT FILED ON 08/09/2007

08/13/2007 Party(s): IDA BOUCHARD
ATTORNEY - RETAINED ENTERED ON 08/09/2007
Plaintiff's Attorney: WADE A RILEY

08/13/2007 Party(s): RICHARD PARENT
SUMMONS/SERVICE - ACK OF RECEIPT OF SUMM/COMP SERVED ON 06/20/2007

08/13/2007 Party(s): RICHARD PARENT
SUMMONS/SERVICE - ACK OF RECEIPT OF SUMM/COMP FILED ON 08/09/2007

08/13/2007 Party(s): RICHARD PARENT
SUMMONS/SERVICE - CIVIL SUMMONS FILED ON 08/09/2007

09/07/2007 Party(s): JEAN PARENT
SUMMONS/SERVICE - PROOF OF SERVICE FILED ON 06/29/2007

09/07/2007 Party(s): JEAN PARENT
SUMMONS/SERVICE - PROOF OF SERVICE SERVED ON 06/28/2007

09/07/2007 Party(s): JEAN PARENT
RESPONSIVE PLEADING - ANSWER FILED ON 06/29/2007

09/07/2007 Party(s): JEAN PARENT
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 06/29/2007

09/07/2007 Party(s): JEAN PARENT

ATTORNEY - RETAINED ENTERED ON 06/29/2007
Defendant's Attorney: DAVID LIPMAN

09/17/2007 Party(s): JEAN PARENT
DISCOVERY FILING - RULE 26(G) LETTER FILED ON 09/10/2007
Defendant's Attorney: DAVID LIPMAN

09/18/2007 Party(s): IDA BOUCHARD
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 09/13/2007
Plaintiff's Attorney: WADE A RILEY
ANSWER TO INTERROGATORIES; PLAINTIFF'S RESPONSE TO DEFENDANT'S REQUEST FOR PRODUCTION OF DOCUMENTS

10/10/2007 Party(s): IDA BOUCHARD
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 10/02/2007
Plaintiff's Attorney: WADE A RILEY
PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS; PLAINTIFF'S FIRST SET OF INTERROGATORIES PROPOUNDED UPON DEFENDANT

11/09/2007 Party(s): JEAN PARENT
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 11/07/2007
Defendant's Attorney: DAVID LIPMAN
DEFENDANT JEAN PARENT'S ANSWERS TO INTERROGATORIES; DEFENDANT JEAN PARENT'S RESPONSE TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS

12/18/2007 Party(s): JEAN PARENT
MOTION - MOTION SUMMARY JUDGMENT FILED ON 12/14/2007
Plaintiff's Attorney: DAVID LIPMAN
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING

01/16/2008 Party(s): IDA BOUCHARD
RESPONSIVE PLEADING - RESPONSE FILED ON 01/04/2008
Plaintiff's Attorney: WADE A RILEY
PLAINTIFF'S OPPOSING STATEMENT AND MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S OBJECTION TO DEFENDANT JEAN PARENT'S MOTION FOR SUMMARY JUDGMENT.

01/18/2008 HEARING - MOTION SUMMARY JUDGMENT SCHEDULED FOR 02/11/2008 @ 1:00 in Room No. 1

01/18/2008 HEARING - MOTION SUMMARY JUDGMENT NOTICE SENT ON 01/18/2008
ATTY RILEY ATTY LIPMAN AND RICHARD PARENT

02/07/2008 Party(s): IDA BOUCHARD
MOTION - MOTION TO CONTINUE FILED ON 02/07/2008
Plaintiff's Attorney: WADE A RILEY
MOTION FOR SUMMARY JUDGMENT HEARING SET FOR 02/11/08 @ 1 PM

02/08/2008 HEARING - MOTION SUMMARY JUDGMENT CONTINUED ON 02/07/2008
ROBERT E MULLEN , JUDGE

02/08/2008 Party(s): IDA BOUCHARD
MOTION - MOTION TO CONTINUE GRANTED ON 02/07/2008
ROBERT E MULLEN , JUDGE
COPIES TO ATTY RILEY, ATTY LIPMAN AND RICHARD PARENT

02/22/2008 HEARING - MOTION SUMMARY JUDGMENT SCHEDULED FOR 03/27/2008 @ 10:00 in Room No. 1

02/22/2008 HEARING - MOTION SUMMARY JUDGMENT NOTICE SENT ON 02/22/2008
ATTY RILEY, ATTY LIPMAN AND RICHARD PARENT

05/13/2008 HEARING - MOTION SUMMARY JUDGMENT HELD ON 03/27/2008
ROBERT E MULLEN , JUDGE

05/13/2008 Party(s): JEAN PARENT
MOTION - MOTION SUMMARY JUDGMENT OTHER DECISION ON 05/12/2008
ROBERT E MULLEN , JUDGE
GRANTED IN PART, DENIED IN PART

05/19/2008 FINDING - JUDGMENT DETERMINATION ENTERED ON 05/12/2008
ROBERT E MULLEN , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO ATTY
RILEY, ATTY LIPMAN AND RICHARD PARENT

ORDER - SUMMARY JUDGMENT ENTERED ON 05/12/2008
ROBERT E MULLEN , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO ATTY
RILEY, ATTY LIPMAN AND RICHARD PARENT
Judgment entered on COUNT 1 for IDA BOUCHARD and against RICHARD PARENT, JEAN PARENT.

06/12/2008 Party(s): JEAN PARENT
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 06/09/2008
Defendant's Attorney: DAVID LIPMAN
NOTICE TO TAKE ORAL DEPOSITION OF IDA BOUCHARD

06/25/2008 Party(s): JEAN PARENT
RESPONSIVE PLEADING - CROSSCLAIM FILED ON 06/20/2008
Defendant's Attorney: DAVID LIPMAN

07/01/2008 Party(s): RICHARD PARENT
RESPONSIVE PLEADING - ANSWER AND CROSSCLAIM FILED ON 06/30/2008
DEFENDANT RICHARD K PARENTS RESPONSE AND CROSS CLAIM TO DEFENDTDANT (SIC) JEAN A. PARENTS
CROSS CLAIM

07/08/2008 Party(s): JEAN PARENT
RESPONSIVE PLEADING - ANSWER TO CROSSCLAIM FILED ON 07/03/2008
Defendant's Attorney: DAVID LIPMAN

07/22/2008 ORDER - SCHEDULING ORDER ENTERED ON 07/14/2008
ROBERT E MULLEN , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO ATTY
RILEY, RICHARD PARENT AND ATTY LIPMAN

07/22/2008 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 11/06/2008

11/26/2008 Party(s): JEAN PARENT
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 11/21/2008

Defendant's Attorney: DAVID LIPMAN

12/11/2008 HEARING - TRIAL MANAGEMENT CONFERENCE SCHEDULED FOR 01/14/2009 @ 1:00 in Room No. 1

12/11/2008 HEARING - TRIAL MANAGEMENT CONFERENCE NOTICE SENT ON 12/11/2008
ATTY RILEY ATTY LIPMAN AND RICHARD PARENT

12/17/2008 Party(s): IDA BOUCHARD
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 11/26/2008
Plaintiff's Attorney: WADE A RILEY

01/15/2009 HEARING - TRIAL MANAGEMENT CONFERENCE HELD ON 01/14/2009
RICHARD MULHERN , JUDGE

01/15/2009 ORDER - PRETRIAL/STATUS ENTERED ON 01/14/2009
RICHARD MULHERN , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO ATTY
RILEY, RICHARD PARENT AND ATTY LIPMAN

01/15/2009 ORDER - ORDER OF ASSIGNMENT ENTERED ON 01/14/2009
RICHARD MULHERN , JUDGE
AUGSC

01/15/2009 ORDER - ORDER OF ASSIGNMENT SENT ON 01/15/2009
RILEY, RICHARD PARENT, AND ATTY LIPMAN
COPY ATTY

01/21/2009 ORDER - ORDER OF ASSIGNMENT RECVD BY COURT ON 01/20/2009

05/01/2009 TRIAL - TRAILING LIST SCHEDULE OTHER COURT ON 04/30/2009
AUGSC
2009
JUNE 2 TO 26,

05/28/2009 TRIAL - BENCH SCHEDULE OTHER COURT ON 06/02/2009 @ 8:00
AUGSC

05/28/2009 TRIAL - BENCH NOTICE SENT ON 05/28/2009

09/02/2009 TRIAL - BENCH HELD ON 06/02/2009
NANCY MILLS , JUSTICE
Defendant's Attorney: DAVID LIPMAN
Plaintiff's Attorney: WADE A RILEY
Reporter: JANETTE COOK
ALSO PRESENT: RICHARD PARENT, PRO SE
NOTES, WITNESS AND EXHIBIT LIST.
OF DEPOSITION OF IDA BOUCHARD (6/20/08) DELIVERED TO AUGSC DURING TRIAL.
SEE CLERK'S
COVER LETTER AND TRANSCRIPT

09/02/2009 TRIAL - TRAILING LIST HELD ON 06/02/2009

09/02/2009 FINDING - JUDGMENT DETERMINATION ENTERED ON 08/27/2009
NANCY MILLS , JUSTICE
COPY TO ATTY RILEY, ATTY LIPMAN, DEFT RICHARD PARENT
NOTES.
SEE JUDGMENT

ORDER - COURT JUDGMENT ENTERED ON 08/27/2009

NANCY MILLS , JUSTICE

COPY TO ATTY RILEY, ATTY LIPMAN, DEFT RICHARD PARENT

Judgment entered for RICHARD PARENT, JEAN PARENT and against IDA BOUCHARD. JUDGMENT IS ENTERED IN FAVOR OF DEFTS RICHARD PARENT AND JEAN PARENT AND AGAINST THE PLTF ON COUNT II OF THE PLTF'S COMPLAINT.

Judgment entered for RICHARD PARENT and against JEAN PARENT. JUDGMENT IS ENTERED IN FAVOR OF DEFT RICHARD PARENT AND AGAINST DEFT JEAN PARENT ON THE DEFT JEAN PARENT'S CROSS-CLAIM.

09/02/2009 FINDING - FINAL JUDGMENT CASE CLOSED ON 09/02/2009

09/04/2009 NOTE - OTHER CASE NOTE ENTERED ON 09/04/2009

NOTICE OF REMOVAL OF EXHIBITS MAILED TO ATTY RILEY, ATTY LIPMAN, DEFT RICHARD PARENT
(EXHIBITS IN FILE)

09/10/2009 Party(s): JEAN PARENT

OTHER FILING - BILL OF COSTS FILED ON 09/10/2009

10/07/2009 Party(s): JEAN PARENT

OTHER FILING - BILL OF COSTS APPROVED ON 10/01/2009

NANCY MILLS , JUSTICE

\$274.30 APPROVED

COPY TO ATTYS

LIPMAN AND RILEY, AND DEFT RICHARD PAENT

10/07/2009 NOTE - OTHER CASE NOTE ENTERED ON 10/07/2009

DISPOSED OF EXHIITS.

10/07/2009 ORDER - ORDER OF ASSIGNMENT RETURN TO ORIG COURT ON 10/07/2009

10/07/2009 CASE STATUS - CASE FILE RETURNED ON 10/07/2009

10/16/2009 ORDER - COURT JUDGMENT COPY TO REPOSITORIES ON 10/16/2009

DEBORAH FIRESTONE, GARBRECHT LAW LIBRARY, DONALD GOSS

A TRUE COPY

ATTEST: _____
Clerk