

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-00-099
NM-CUM-8/1/2000

MARTIN SCHINDLER,

Plaintiff

vs.

ORDER ON PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

DEBORAH NILSEN,

Defendant

The plaintiff seeks a summary judgment in his favor and against the defendant on both counts of the complaint in the amount of \$34,703.60 as of October 25, 1999, with interest accruing at the rate of 1.5% per month. For the following reasons, the motion is GRANTED.

The plaintiff filed a statement of facts, supported by record references, which provides that as of 10/25/99, the sum of \$34,703.60 was owed by the defendant to the plaintiff pursuant to the parties' fee agreement. See Pl.'s SUMF, ¶¶ 3, 6. Interest continues to accrue on the unpaid balance at the rate of 1.5% per month. See id., ¶ 7. The plaintiff demanded payment from the defendant and advised her of her right to pursue fee arbitration. See id., ¶ 8. The defendant has not paid to the plaintiff the amount owed to him. See id., ¶ 9.

The defendant filed no statement of disputed material facts. See M.R. Civ. P. 7(d)(2) & 56(c). Accordingly, the facts in the plaintiff's statement of facts which are supported by record references are deemed admitted. See Saucier v. State Tax Assessor, 2000 ME 8, ¶ 5, 745 A.2d 972, 974.

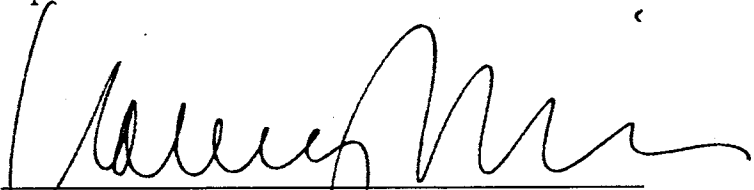
At the hearing on the plaintiff's motion, the defendant presented an affidavit signed by her, the notice of acknowledgment for service by mail signed by Attorney Schindler regarding the complaint in the defendant's divorce case, the divorce summons, the preliminary injunction, a canceled check signed by the defendant dated 6/30/92, a letter from Attorney Trudo, and a copy of an affidavit signed by the defendant's brother, Paul Nilsen. No statement of disputed material fact was presented by the defendant at the hearing. No affidavit was filed concerning why these materials were not filed at the time the defendant's opposition to the motion for summary judgment was filed on 3/17/00. See M.R. Civ. P. 56(f). A review of these materials makes clear that all of the documents submitted at the hearing were available to the defendant prior to 3/17/00.

Although the defendant is representing herself in this matter, she is held to the same standard as a party represented by an attorney. See Richards v. Bruce, 1997 ME 61, ¶ 8, 691 A.2d 1223, 1225.

The entry is

The Plaintiff's Motion for Summary Judgment is GRANTED.
Judgment is entered in favor of the Plaintiff and against the Defendant in the amount of \$34,703.60 as of 10/25/99 with interest accruing on the unpaid balance at the rate of 1.5% per month.

Date: August 1, 2000



Nancy Mills
Justice, Superior Court

Action CONTRACT

DONALD L. GARRETT
 LAW FIRM

MARTIN SCHINDLER

DEBORAH NILSEN

AUG 21 2000

vs.

Plaintiff's Attorney

THOMAS A. DYHRBERG ESQ 767-3331
 125 OCEAN STREET
 SO PORTLAND ME 04106

Defendant's Attorney

DEBORAH F. NILSON (PRO SE) 883-8937
 PO BOX 1333
 SCARBOROUGH ME 04070-1333

Date of Entry

2000	
Feb. 10	Received 02-10-00: Complaint Summary sheet filed.
" "	Complaint with Exhibits A,B, and D filed.
" "	Summons filed showing officer's return of service on 02-03-00 upon Deborah Nilsen
Feb. 14	Received 2-14-00: Plaintiff's Exhibit C filed
Feb. 24	Received 2-23-00. Defendant's Answer to complaint with attachment filed.
Feb. 25	Received 2/24/00. Plaintiff's motion for summary judgment filed.
""	Plaintiff's memorandum of law in support of motion for summary judgment with attachments filed.
""	Plaintiff's statement of material facts filed.
""	Affidavit of Martin Schindler with exhibits A-E filed.
""	Request for Hearing filed.
Mar. 02	Received 03/01/00: Scheduling Order filed. (Mills, J.) The entry shall be: "Scheduled Order filed.Discovery Deadline is 11/01/00. On 03/02/00 copy mailed to Thomas Dyhrberg, Esq. and Deborah Nilson, Pro se
Mar. 17	Received 03/17/00: Defendant's opposition to motion for summary judgment with attachment filed
Mar. 22	Received 3-21-00. Plaintiff's reply to defendant's opposition to motion for summary judgment filed.
May 24	Received 05/24/00: Plaintiff's Notification of Discovery Service filed. Plaintiff's first request for production of documents; Plaintiff's request for Admissions served on Deborah Nilsen, Pro Se on 05/23/00.