

STATE OF MAINE

KENNEBEC, ss.

SUPERIOR COURT

CIVIL ACTION

DOCKET NO. AP-03-30

SRS-RE-2-10/01 2003

SCHEIFERSTEIN ENTERPRISES,

Plaintiff/Appellee

v.

DECISION ON APPEAL

KAY and DAN SINCLAIR,

Defendants/Appellants

DONALD L. GAPPRECHT
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OCT 21 2003

This matter comes before the court on appeal from a small claims judgment entered by the District Court in favor of plaintiff/appellee Scheiferstein Enterprises (Scheiferstein). The underlying dispute between Scheiferstein and the Sinclairs has to do with payment by the Sinclairs for certain construction work performed for them by Scheiferstein. The Sinclairs did not dispute that they owed Scheiferstein for the work performed, but contest what amount they owed.

This matter was heard in the District Court and taken under advisement. A short time later, judgment was entered in favor of Scheiferstein in the amount of \$3,899.88, plus interest and costs.

The Sinclairs appealed the District Court decision, primarily questioning the amount of the judgment. Though they initially ordered a transcript of the hearing, the Sinclairs for some reason did not meet the requirements for obtaining the transcript and none was prepared. Lack of a transcript as part of the record greatly handicaps any appellant review.

Discussion

As explained by the court at the beginning of oral argument, the purpose of an appeal from a small claims decision is not to retry the matters decided in the District

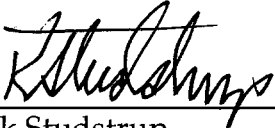
Court. Instead, the appeal is limited to questions of law. M.R. Civ. P. 76D. The court reviews the decision of the District Court for abuse of discretion, errors of law or findings not supported by the evidence. *Tisdale v. Rawson*, 2003 ME 68, 822 A.2d 1136, 1140. The court is also confined to the record of evidence as presented to the District Court.¹

After reviewing the record, such as it is, the court is satisfied that there was no abuse of discretion, error of law, or unsupported findings, and determines the appeal must be denied.

The entry will be:

Appeal DENIED; REMANDED to the District Court.

Dated: October 14, 2003



S. Kirk Studstrup
Justice, Superior Court

¹ At oral argument, the Sinclairs brought to the court's attention a document which they found subsequent to the District Court trial, which they believe helps strengthen their case. While such newly found evidence might provide a basis for a motion for new trial, the evidence is not properly part of the record on appeal.

Action Appeal from District Court
Small Claims

J. STUDSTRUP

Scheiferstein Enterprises vs. Kay & Dan Sinclair

Plaintiff's Attorney
Scheiferstein Enterprises, Pro Se
P.O. Box 166
Fairfield, Maine 04937

Defendant's Attorney
Kay & Dan Sinclair, Pro Se
5 Taylor Road
Albion, Maine 04910

Date of
Entry

6/2/03	Appeal from Waterville District Court with all papers, filed.
6/25/03	Copy of letter from Electronic Recording indicating no transcript will be prepared as the Sinclairs have not met requirements to process the transcript, filed. s/G. Kinney.
6/27/03	Briefing schedule mailed to parties. (no transcript to be filed)
8/4/03	Appellant's Brief, filed. s/Kay Sinclair, Pro se.
8/6/03	Last page of Appellant's Brief signed by Dan Sinclair, filed.
	Notice of setting for <u>10/8/03</u> sent to attorneys of record.
9/29/03	Reply Brief, filed. s/Scheiferstein.
10/8/03	Hearing had on oral arguments with Hon. Kirk Studstrup, presiding. Tape #651 Index 431-910 William Scheiferstein for Scheiferstein Enterprises, Pro Se and Kay & Dan Sinclair, Pro Se Oral arguments made to the court. Court to take matter <u>under advisement</u> .
10/14/03	DECISION ON APPEAL, Studstrup, J. Appeal DENIED; REMANDED to the District Court. Copies mailed to attys of record. Copies mailed to Deborah Firestone, Garbrecht Library and Goss.