

STATE OF MAINE
PENOBSCOT, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO CV-17-033

AUTUMN WOODS a/k/a
NADINE MAXIM,

Plaintiff,

v.

PETER and AMANDA
MORRISON,

Defendants.

ORDER

Hearing was held on the plaintiff's complaint on May 14, 2018. The plaintiff was present and represented by counsel, Kenneth Fredette, Esq., while the defendants were present, representing themselves. Plaintiff's complaint contains counts for specific performance (Count I), unjust enrichment (Counts II and IV), breach of contract (Count III), conversion (Count V), and bailment (Count VI).

This controversy concerns ownership of and contractual rights to four Great Danes. The parties entered into a complex series of transactions involving the dogs including sale, co-ownership, foster care, and adoption. The Court will not chronicle the details of the disparate versions of facts presented at trial because it finds that Def. Ex. #2 is dispositive of the parties' rights with regard to three of the dogs. This exhibit, which was drafted amidst prior litigation between the plaintiff and another person claiming an interest in some of the same dogs, defines the parties' rights with regard to Zoey, Minnie, and Hiccup, also known as Nala. In that litigation, plaintiff prepared the document and solicited Amanda Morrison to parrot its content in order to gain advantage over that defendant by demonstrating Ms. Morrison's interest in the dogs the

other person was claiming as her own.¹ Consistent with that exhibit, the Court makes findings with regard to the following dogs:

1. Zoey is the property of Amanda Morrison, provided she is not bred.
2. Minney is the property of Amanda Morrison with full breeding rights.
3. Nala is the property of Amanda Morrison with full breeding rights. This dog was to be paid off with the cash value of the pick of the first litter.

Concerning Nala, the Court finds that the value of the pick of the litter is \$1,000 and that she ran away prior to having a litter. The Court construes this agreement as requiring that defendants pay that value to complete the sale and that it was no fault of theirs that there was no litter. To consummate this portion of the agreement, the Morrisons must pay \$1,000 to plaintiff and if she is recovered, she shall be the property of the Morrisons. With regard to Nitro, also in possession of the Morrisons at the time of the hearing, the plaintiff paid \$800 for this dog which was to be co-owned by Nadine Maxim and Amanda. It is unrealistic to believe that this dog can be co-owned so he will remain with the Morrisons who will have to reimburse ½ of its purchase price under a theory of unjust enrichment.

With these findings in mind, the Court Orders as follows:

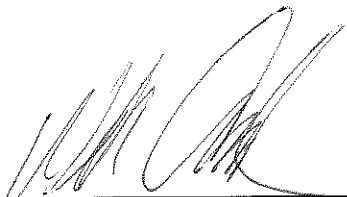
Judgment for the defendants on Count I, Specific Performance; Count V, Conversion; and Count VI, Bailment.

Judgment for the plaintiffs on Counts III, Breach of Contract in the amount of \$1,000 and Count II and IV, Unjust Enrichment in the amount of \$400.

¹ If the content of the exhibit is accurate, then it should control the parties' rights to the three dogs. If not, the plaintiff should not be permitted to gain advantage in this litigation by disavowing a document that the plaintiff prepared in order to gain an advantage in the former litigation.

The Clerk shall incorporate this Judgment into the docket by reference.

Dated: September 4, 2018



WILLIAM ANDERSON
JUSTICE, SUPERIOR COURT

**ORDER/JUDGMENT ENTERED IN THE
COURT DOCKET ON: 9/5/18**

AUTUMN WOODS AKA NADINE MAXHAM - PLAINTIFF

DISTRICT COURT

NEWPORT

Docket No NEWDC-CV-2017-00033

Attorney for: AUTUMN WOODS AKA NADINE MAXHAM

KENNETH W FREDETTE - RETAINED

LAW OFFICE OF KENNETH W FREDETTE

PO BOX 70

NEWPORT ME 04953

DOCKET RECORD

VS

PETER MORRISON - DEFENDANT

27 SUNFLOWER DRIVE

PRENTISS ME 04487

AMANDA MORRISON - DEFENDANT

27 SUNFLOWER DRIVE

PRENTISS ME 04487

Filing Document: COMPLAINT

Minor Case Type: OTHER CIVIL

Filing Date: 05/05/2017

Docket Events:

05/08/2017 FILING DOCUMENT - COMPLAINT FILED ON 05/05/2017

05/08/2017 Party(s): AUTUMN WOODS AKA NADINE MAXHAM

ATTORNEY - RETAINED ENTERED ON 05/05/2017

Plaintiff's Attorney: KENNETH W FREDETTE

05/08/2017 Party(s): PETER MORRISON

SUMMONS/SERVICE - CIVIL SUMMONS SERVED ON 03/29/2017

05/08/2017 Party(s): AMANDA MORRISON

SUMMONS/SERVICE - CIVIL SUMMONS SERVED ON 03/29/2017

05/08/2017 Party(s): PETER MORRISON, AMANDA MORRISON

RESPONSIVE PLEADING - ANSWER FILED ON 05/01/2017

05/11/2017 ORDER - SCHEDULING ORDER ENTERED ON 05/10/2017

CHARLES BUDD , JUDGE

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05/11/2017 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 08/01/2017

08/17/2017 Party(s): AUTUMN WOODS AKA NADINE MAXHAM

OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 08/16/2017

08/17/2017 Party(s): AMANDA MORRISON

OTHER FILING - WITNESS LIST FILED ON 08/17/2017

08/21/2017 Party(s): AMANDA MORRISON

OTHER FILING - EXHIBIT LIST FILED ON 08/21/2017

10/27/2017 ORDER - SCHEDULING ORDER ENTERED ON 10/18/2017

CHARLES BUDD , JUDGE

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