

Decision: 2002 ME 42  
Docket: And-01-123  
Argued: September 10, 2001  
Decided: March 19, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER, and CALKINS, JJ.\*

THERESA LOBOZZO

v.

PROGRESSIVE CASUALTY INSURANCE COMPANY

PER CURIAM

[¶1] Theresa Lobozzo appeals from the summary judgment in favor of Progressive Casualty Insurance Company entered in the Superior Court (Androscoggin County, *Delahanty, J.*) contending the court erred as a matter of law in its interpretation of 24-A M.R.S.A. § 2902-B (2000) by misconstruing what an insurance company must do to exclude coverage for injuries to a motorcycle passenger. Progressive cross-appeals, contending the Superior Court abused its discretion by excluding an affidavit as a discovery sanction. We affirm the discovery sanction; and because the Court is evenly divided, we affirm the summary judgment.

The entry is:

Judgment affirmed.

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\* Wathen, C.J., sat at oral argument and participated in the initial conference, but resigned before this opinion was adopted.

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