

**SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

LAW DOCKET NO. BCD-24-53

KATHY S. BROWN, et al.,

Plaintiffs-Appellants,

v.

COMPASS HARBOR VILLAGE CONDOMINIUM ASSOCIATION, et al.,

Defendants-Appellees.

**APPEAL FROM THE MAINE BUSINESS AND CONSUMER COURT
Docket No. BCD-CIV-2021-02**

REPLY BRIEF OF THE APPELLANTS

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TABLE OF CONTENTS

I. THIS COURT MUST ENFORCE THE PLAIN LANGUAGE OF SECTION 1603-117(A) 1

CERTIFICATE OF SERVICE 5

TABLE OF AUTHORITIES

Statutes

33 M.R.S. § 1603-117(a).....*passim*

I. This Court Must Enforce the Plain Language of Section 1603-117(a)

This appeal is about the Business Court's failure to follow the plain language of 33 M.R.S. § 1603-117(a). Yet Appellees fail to quote the statute even once in their brief. Instead, Appellees incorrectly assert that this Court must conform the statute to the Business Court's decision. That is exactly backwards. The Business Court's decision must conform to the statute. It does not.

This question on appeal does not turn on divorces or contracts or any of the other disparate areas of law Appellees cite. It is fully grounded in condominium law, which Appellees ignore. Condominiums are creatures of statute governed by statutes like Section § 1603-117(a). Even more importantly, Appellees and the Business Court misunderstood the core principle that condominium associations are comprised of unit owners. A judgment against an association is paid by unit owners, or it is not paid. Associations do not have other sources of income. Any person buying a unit knows they are joining an association and are liable for the debts of the association, including judgments like this one, regardless of whether they were directly involved in the debt. They know this because the Maine Condominium Act (and the declaration and bylaws) says so.

Appellees' argument on page 6 of their brief that Appellants failed to bring claims against the other unit owners in obtaining the Underlying Judgment reveals a fundamental misunderstanding of condominium law. Appellants had no claim

against the other unit owners in the underlying action. Their claim was against the LLC (as the declarant) and the Association. Appellants' claims against the other unit owners did not arise until they obtained a judgment against the Association, which the Association refused to pay. When that happened, Section 1603-117(a) came into play, giving Appellants a lien on all units for each unit's proportionate share. The fact that the other unit owners were not parties to the underlying litigation is not only irrelevant to Appellants' claim under Section 1603-117(a), but is exactly the way things were supposed to work.

Appellees further seek to distract this Court by discussing Mr. Contorakes. Appellants certainly agree that Mr. Contorakes was a bad actor. After all, Appellants were the ones to step up and spend the money and time to try to fix matters for all unit owners. However, whether Mr. Contorakes was a bad actor is irrelevant to this appeal. Appellants got a judgment against the Association, not against Mr. Contorakes. The Association is responsible for paying the judgment against it. If it doesn't, Appellants can enforce their judgment lien under Section 1603-117(a).

Appellees also improperly seek to hide behind "innocent unit owners." *Appellees' Brief at 16*. As discussed, there is no concept of "innocent unit owners" under the Maine Condominium Act in general or under Section 1603-117(a) in particular. Unit owners are required by the Maine Condominium Act (and their

declaration and bylaws) to pay an association's debts regardless of whether they were involved in the debt. Further, Orono, the only unit owner left besides Mr. Maples, is no "innocent unit owner." Orono purchased its units with full knowledge of Appellants' claims against the Association and their efforts to enforce the Underlying Judgment, including via their statutory lien rights. Orono presumably benefitted from Appellants' claims via a reduced purchase price. Orono absolutely had full knowledge of Appellants' claims before purchasing a single unit and continued to purchase all units except Mr. Maples' unit.

The Business Court cannot simply choose to ignore Section 1603-117(a) or write into the law caveats that do not exist. The statutory language is plain and must be followed. The Maine Condominium Act is crystal clear that assessments and the judgment lien under Section 1603-117(a) are separate and distinct paths to recovery for a judgment creditor. A judgment against an association is meaningless if it cannot be enforced when the unit owners comprising the association decide not to pay, or, as in this case, when the single unit owner comprising the Association refuses to pay. The Business Court erred when it conflated assessment and the statutory judgment lien and ignored the plain language of Section 1603-117(a). This Court should reverse the Dismissal Order and remand for further proceedings.

Dated at Portland, Maine this 25th day of July, 2024.

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CERTIFICATE OF SERVICE

I, Brendan P. Rielly, attorney of record for Appellants hereby certify that I have this 25th day of July 2024, caused two (2) copies of the foregoing Reply Brief of Appellant to be served by depositing the same in the United States mail, pre-paid, first-class mail, addressed as follows:

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Dated at Portland, Maine this 25th day of July, 2024.

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