

ARTHUR POWERS

v.

NASH EQUIPMENT, INC., et al.

Submitted on Briefs January 27, 2011

Decided February 1, 2011

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Nash Equipment, Inc. (Nash Equipment) and Eddie Nash & Sons, Inc. (Eddie Nash) appeal from a judgment of the District Court (West Bath, *Tucker, J.*) on a complaint for the recovery of personal property. Contrary to Eddie Nash's contentions, the court did not err in holding that Eddie Nash did not have a perfected security interest in the equipment at issue with priority over the interest of Arthur Powers because Eddie Nash did not continue its initial filing, which expired in 2007, and its second filing was subsequent to Powers's purchase of the equipment and additionally could not perfect the interest because the debtor no longer owned the collateral. *See* 11 M.R.S. § 9-1308(3) (2010) (stating that a security interest "is perfected continuously if it is originally perfected by one method under this Article and is later perfected by another method under this Article, without an intermediate period when it was unperfected"); 11 M.R.S. § 9-1515(3) (2010) (on lapse after five years, security interest is deemed to have never been perfected as against a purchaser of the collateral for value); *id.* § 9-1515(4) (stating that a secured party may file a continuation statement only within the six months before expiration); 11 M.R.S. § 9-1102(27) (2010) (defining a continuation statement as an amendment that identifies the initial statement and indicates that the filer intends to continue the effect of that statement). The parties correctly assert that Nash Equipment is not a proper party to the proceeding, but that issue is moot.

The entry is:

Judgment affirmed.

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**Attorney for Nash Equipment, Inc. and  
Eddie Nash & Sons, Inc.:**

Theodore H. Irwin, Jr., Esq.  
Irwin, Tardy & Morris  
183 Middle Street  
PO Box 7030  
Portland, Maine 04112

**Attorneys for Arthur Powers:**

Andrews Bruce Campbell, Esq.  
Randy L. Robinson, Esq.  
Andrews Bruce Campbell, P.A.  
919 Ridge Road  
Bowdoinham, Maine 04008