

FONTAINE'S, INC.

v.

DORLER COMMUNICATIONS CO.

Submitted on Briefs May 25, 2000

Decided May 26, 2000

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

#### MEMORANDUM OF DECISION

Fontaine's, Inc. appeals from the judgment of the Superior Court (Oxford County, *Perkins, A.R.J.*) affirming the judgment of the District Court (Rumford, *Mullen, J.*) holding that Fontaine's motion for relief from a default judgment pursuant to M.R. Civ. P. 60(b)(4) is barred by res judicata. Fontaine's previously sought relief from judgment by a motion pursuant to M.R. Civ. P. 60(b)(6). That motion was denied (*Gorman, J.*), and no appeal was taken. Because the Rule 60(b)(4) issue could have been raised in the first Rule 60(b) motion, law of the case and principles of res judicata bar the second motion for relief from judgment. See *Department of Human Servs. v. Monty*, 2000 ME 96, ¶ 7, n.6; *Royal Coachman Color Guard v. Marine Trading & Transp., Inc.*, 398 A.2d 382, 383-84 (Me. 1979).

The entry is:

Judgment affirmed.

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