

EILEEN MONAHAN

v.

BRIAN GREENWOOD

Submitted on Briefs January 14, 2000
Decided January 25, 2000

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

MEMORANDUM OF DECISION

Eileen Monahan appeals from a summary judgment entered in the Superior Court (Cumberland County, *Delahanty, J.*) in favor of Brian Greenwood on Monahan's contractual and equitable claims. Monahan contends that the Superior Court misapplied the affirmative defense of accord and satisfaction. *See* 14 M.R.S.A. § 155 (1980); 11 M.R.S.A. § 3-1311 (1995). Monahan, however, failed to comply with the dictates of M.R. Civ. P. 7(d)(2). In her statement of material facts, she controverted Greenwood's Rule 7(d) statement in a conclusory fashion without appropriate record references. Therefore, we deem Greenwood's facts to be admitted. *See Prescott v. State Tax Assessor*, 1998 ME 250, ¶ 6, 721 A.2d 169, 172. Taking the pertinent facts as admitted, while construing the facts in the light most favorable to Monahan, we find that her contentions fail. There is clear and unambiguous evidence of an accord and satisfaction between the parties. *See E.S. Herrick Co. v. Maine Wild Blueberry Co.*, 670 A.2d 944 (Me. 1996).

The entry is:

Judgment affirmed.

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