

ESTATE OF BERYL ROCKWELL

v.

ORA HARDY

Submitted on Briefs October 11, 2001
Decided November 8, 2001

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

MEMORANDUM OF DECISION

The Estate of Beryl Rockwell appeals from a summary judgment entered in favor of Ora Hardy by the Penobscot County Probate Court (*Woodcock, J.*) and from the court's refusal to grant the Estate an enlargement of time to file answers to a request for admission. Contrary to Rockwell's contentions, the court did not exceed the bounds of its discretion by refusing to enlarge the time in which to answer the request for admission, *Gregory v. City of Calais*, 2001 ME 82, ¶ 9, 771 A.2d 383, 386 (the trial court is in a "superior position to evaluate the credibility and good faith of the parties before it"), and the court did not err in granting Hardy a summary judgment, because the facts that were properly before the court established as a matter of law there was no partnership, *see Lupien v. Malsbenden*, 477 A.2d 746, 748 (Me. 1984) (a partner is identified by his or her "total involvement" in terms of "financial interest . . . and involvement in day-to-day business operations" evidenced by a "right to participate in control of the business").

The entry is:

Judgment affirmed.

Attorney for plaintiff:

Patrick E. Hunt, Esq.
P O Box 130
Island Falls, ME 04747-0130

Attorney for defendant:

Michael E. Carpenter, Esq.
P O Box 1406
Houlton, ME 04370