

PEOPLES HERITAGE BANK, N.A.

v.

STANWOOD C. TINGLEY et al.

Submitted on Briefs January 31, 2001  
Decided February 28, 2001

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

#### MEMORANDUM OF DECISION

Stanwood and Janice Tingley appeal from a summary judgment for foreclosure entered in the Superior Court (Franklin County, *Perkins, A.R.J.*) in favor of Peoples Heritage Bank, N.A. Contrary to the Tingleys' contention, the denial of a prior motion for summary judgment (Franklin County, *Hjelm, J.*) did not preclude a second such motion, *Lord v. Murphy*, 561 A.2d 1013, 1016 (Me. 1989) (stating that a ruling may be reconsidered where new evidence is presented); *Lester v. Powers*, 596 A.2d 65, 67-68, 72 (Me. 1991) (affirming decision to grant a summary judgment following the denial of a prior motion for summary judgment). Because the bank presented an appropriately supported statement of undisputed material fact, establishing that the parties did not possess the meeting of the minds necessary for an accord and satisfaction, *Rosenthal v. Rosenthal*, 543 A.2d 348, 354 (Me. 1988) (stating that the party claiming accord and satisfaction must establish a meeting of the minds) and because the Tingleys failed to

submit a statement of disputed facts in response thereto, the bank's statement of undisputed facts was correctly deemed admitted. M.R. Civ. P. 7(d)(2);<sup>1</sup> *Gerrity Co., Inc. v. Lake Arrowhead Corp.*, 609 A.2d 293, 295 (Me. 1992) (holding that the court properly granted summary judgment where the responding party failed to file a 7(d)(2) statement).

The entry is:

Judgment affirmed.

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1. At the time the parties filed their statements of material facts, M.R. Civ. P. 7(d) was the applicable rule. Effective January 1, 2001, Rule 7(d) was amended and M.R. Civ. P. 56(h), which now governs such statements, was adopted.