

SHEPARD CHEVROLET, INC.

v.

STEPHEN THIBODEAU

Submitted on Briefs May 30, 2002
Decided July 25, 2002

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

MEMORANDUM OF DECISION

Shepard Chevrolet appeals a judgment entered in the District Court (Rockland, *Anderson, J.*) in favor of defendant Stephen Thibodeau on Shepard Chevrolet's two-count complaint alleging negligence and negligent bailment. Addressing only the negligent bailment claim, Shepard Chevrolet argues that (1) the District Court improperly considered the issue of an independent intervening event¹ because Thibodeau did not affirmatively plead that defense, and (2) even if properly considered, the District Court improperly applied intervening event analysis.

1. Shepard Chevrolet's brief sometimes characterized this issue as "superseding causation," but the term independent intervening event is similar to the term used by the District Court and is the more common term to address the issue.

Shepard Chevrolet, as the appellant, has not provided any transcript of the District Court hearing. When the record on appeal does not include a transcript of the proceedings below, we assume that the transcript would support the trial court's findings of fact and its rulings on evidentiary and procedural issues. *State v. Nugent*, 2002 ME 111, ¶ 2, --- A.2d ---; *Putnam v. Albee*, 1999 ME 44, ¶ 10, 726 A.2d 217, 220. Because we assume that the transcript would support the trial court's findings and its rulings on procedural issues, we must affirm the judgment.

The entry is:

Judgment affirmed.

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