Georgia State University
Digital Archive @ GSU

Georgia Business Court Opinions | College of Law

1-14-2011

Order on Sussex's Motion for Summary Judgment (CURTIS LEE MAYFIELD, III)

Elizabeth E. Long
Superior Court of Fulton County

Follow this and additional works at: http://digitalarchive.gsu.edu/col_businesscourt

Recommended Citation
Long, Elizabeth E., "Order on Sussex's Motion for Summary Judgment (CURTIS LEE MAYFIELD, III)" (2011). *Georgia Business Court Opinions*. Paper 181.
http://digitalarchive.gsu.edu/col_businesscourt/181

This Court Order is brought to you for free and open access by the College of Law at Digital Archive @ GSU. It has been accepted for inclusion in Georgia Business Court Opinions by an authorized administrator of Digital Archive @ GSU. For more information, please contact digitalarchive@gsu.edu.

COPY

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

CURTIS LEE MAYFIELD, III et al.,	)	
Plaintiffs,	)	
v.	)	**Civil Action File No. 2009-CV-166043**
MARVIN HEIMAN, et al.,	)	
Defendants.	)	

FILED IN OFFICE
JAN 14 2011
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

ORDER ON SUSSEX'S MOTION FOR SUMMARY JUDGMENT

Defendant Sussex Financial Group, Inc. ("Sussex") moved for summary judgment on the claims brought by Curtis Lee Mayfield III ("Curtis Mayfield III") against Sussex on the ground that the claims are barred by the four-year statute of limitations. Based on the motion, the briefs, and the record, the Court finds as follows:

A court should grant a motion for summary judgment pursuant to O.C.G.A. § 9-11-56 when the moving party shows that no genuine issue of material fact remains to be tried and that the undisputed facts, viewed in the light most favorable to the non-movant, warrant summary judgment as a matter of law. Lau's Corp., Inc. v. Haskins, 261 Ga. 491, 491 (1991). The moving party need only eliminate one essential element of a party's claim to prevail on summary judgment. Real Estate Int'l Inc. v. Buggah, 220 Ga. App. 449, 451 (1996).

In an Order dated October 12, 2009, the Court denied Sussex's Motion to Dismiss the claims by Curtis Mayfield III because "in an affidavit [he] says he did not learn of the claims until February, 2005." Sussex now contends that the deposition testimonies of Curtis Mayfield III and Altheida Mayfield show that Curtis Mayfield III learned of the lawsuit against Marvin Heiman in 2002, not 2005. The 2002 lawsuit was against Marvin Heiman, not Sussex. Knowing about the lawsuit in 2002 does now show that he knew of claims against Sussex. Marvin Heiman and Sussex are separate entities. Similarly,

transmittal letters on Sussex letterhead from Marvin Heiman do not amount to knowledge of claims against Sussex. No where in Curtis Mayfield III's deposition does he say that he knew of the claims against Sussex in 2002.

Sussex's Motion for Summary Judgment is hereby DENIED.

SO ORDERED this 14th day of January, 2011.

ELIZABETH E. LONG, SENIOR JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit

Copies to:

Attorneys for Plaintiffs:

James Voyles, Esq.
Mark F. Milhollin, Esq.
Monica W. Holbrook, Esq.
The Voyles Milhollin Law Firm
3745 Cherokee Street, Suite 702
Kennesaw, GA 30144
(770) 421-8883
(770)421-8884 fax

Patrick B. Moore, Esq.
Weinberg, Wheeler, Hudgins, Gunn & Dial LLC
3344 Peachtree Road
Suite 2400
Atlanta, GA 30326
404-876-2700
404-875-9433 (fax)
pmoore@wwhgd.com

Attorneys for Defendants:

Counsel for Sherry Harrison as the Representative of the Estate of Arnold Harrison, Katten, Muchin, Zavis and Katten Muchin Rosenman LLP

C.B. Rogers, Esq.
Dan F. Laney, Esq.
Kimberly L. Myers, Esq.
Julie M. Reed, Esq.
Rogers & Hardin
2700 International Tower, Peachtree Center
229 Peachtree Street N.E.
Atlanta, GA 30303

Counsel for Sussex Financial Group, Inc. and Counsel for Marvin Heiman

Anthony L. Cochran, Esq.
Todd P. Swanson, Esq.
Chilivis, Cochran, Larkins & Bever, LLP
3127 Maple Drive, NE
Atlanta, GA 30305