

Franklin County Legal Journal

Volume 23, No. 6, pp. 18-19

Belfast Township v. Lehman

BELFAST TOWNSHIP, Plaintiff,

v. P. JOSEPH LEHMAN, INC., Defendant

Court of Common Pleas of the 39th Judicial District of Pennsylvania,

Fulton County Branch

Civil Action No.15 of 2004-C

*Motion for judgment on the pleadings; Statute of limitations for breach of contract;  
42 Pa.C.S.A. § 5525(a)(1).*

1. A cause of action accrues and the applicable statute of limitations begins to run as soon as the plaintiff could have first maintained a cause of action.
2. Lack of knowledge, mistake and misunderstanding do not toll the running of the statute of limitations; because it is the plaintiff's duty to investigate and pursue the claim, the limitations period expires if the plaintiff, through the exercise of due diligence, could have discovered or learned of a breach of contract.
3. Where the pleadings show that the plaintiff knew about the defendant's breach within the 4-year statute of limitations, but did not file suit until almost 8 years after it discovered the breach, the plaintiff's suit was untimely.

Appearances:

Carlton Anne Cook Walker, Esq., *Counsel for Plaintiff*

John P. Urban, Esq., *Counsel for Defendant*

#### OPINION AND ORDER OF COURT

Walker, P.J., June 15, 2005

This dispute arose from a contract the parties signed in June 1992. The Defendant was to prepare a sewage treatment plan and submit it to both the Township and Pennsylvania Department of Environmental Protection (DEP), while the Township was going to pay him \$7,000 for the work. To date, the Defendant has billed the Township, and been paid, \$5,700.

In February of 1996, the Township received a letter from the Pennsylvania DEP informing it that the sewage plan had never been submitted to the agency for its review. The Township contacted Lehman at this time, but nothing came of that communication. In August 2003, the Township again contacted Lehman via certified mail, claiming that the contract had not been completed and offering Lehman several options to fulfill the contract they signed in 1992. Lehman never responded to this letter.

Lehman has filed a Motion for Judgment on the Pleadings because he argues that the statute of limitations has run. Pennsylvania has a four-year statute of limitations on contract matters. 42 Pa.C.S.A. §5525(a)(1). Therefore, the issue in this case is at what particular time the 1992 contract was breached. The Township claims that the contract was not breached until 2003, while Lehman claims that the Township first became aware of the breach in 1996.

A cause of action accrues and the applicable statute of limitations begins to run as soon as the plaintiff could have first maintained a cause of action. Kapil v. Association of Pennsylvania State College and University Facilities, 470 A.2d 482, 485 (Pa. 1983). Lack of knowledge, mistake, and misunderstanding do not toll the running of the statute of limitations. Hayward Medical Center of Beaver Co., 608 A.2d 1040 (Pa. 1992). The plaintiff does not have to have actual knowledge of the breach to toll the statute. It is enough that the plaintiff, through the exercise of due diligence, could have discovered knowledge of the breach. Cappelli v. York Operating Co., 711 A.2d 481 (Pa. Super. 1998). It is the plaintiff's duty to investigate and pursue the claim. Id.

It is clear to this Court that Lehman did not fulfill his obligations under the contract. The DEP never received the sewage plan, and even more telling is the fact that Lehman never billed the Township for the entire amount agreed upon in the contract. However, even though Lehman breached the contract, the Township was fully aware of this breach as of February 1996 because of the DEP's letter to the Township regarding the sewage plan. The Township had four years from its receipt of the DEP letter to file a claim for breach of contract. This case was not filed until January 22, 2004, almost a full eight years after it received the DEP's letter. For these reasons, the Township's claim is untimely as a matter of law and is dismissed with prejudice. Lehman's Motion of Judgment on the Pleadings is granted.