

MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW DOCKET NO. OXF-25-568

MARITZA Y. TERUEL

Plaintiff - Appellant

v.

SCHIAVI HOMES LLC

Defendant - Appellee

ON APPEAL FROM OXFORD COUNTY SUPERIOR COURT

REPLY BRIEF OF PLAINTIFF/APPELLANT

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ARGUMENT

Pursuant to Maine Rule of Appellate Procedure 7A(c), Plaintiff/Appellant Maritza Teruel responds to new facts and arguments raised in Defendant/Appellee Schiavi Homes LLC's Appellee Brief as follows.

I. SCHIAVI HAS FAILED TO DEMONSTRATE HOW IT COULD HAVE POSSIBLY OVERPAID MS. TERUEL FOR HER COMMISSIONS

Schiavi has once again failed to provide any plausible explanation as to how it could have possibly overpaid Ms. Teruel for her sales commissions in this case. In a footnote, Schiavi asserts that it does not need to provide any explanation because Ms. Teruel “admits the accuracy of the documents evidencing proof of payments to Teruel . . . ,” specifically referring to its Statements of Material Fact ¶¶ 61-66. *Appellee Brief* p. 18, fn. 3. Ms. Teruel did nothing of the sort. She merely conceded that the documents in these paragraphs are “cited correctly,” *i.e.* the figures that appeared in the documents referenced in these paragraphs were accurately represented in Schiavi's Statements of Material Fact.

Ms. Teruel's appellant brief is otherwise replete with record citations that clearly establish genuine issues of fact regarding this issue. Schiavi relies on an affidavit from its Vice President, Anna Cyr, to establish the alleged overpayment in this case. *App.* at 46-51. In turn, Ms. Cyr's affidavit relies exclusively on “payroll information” to conclude that Ms. Teruel accepted \$18,912.32 in

commissions on Schiavi projects, which is \$4947.11 more than Schiavi alleges that Ms. Teruel rightfully earned. *Id.* at 50-51 ¶ 34. This “payroll information,” attached to Ms. Cyr’s affidavit as Exhibit 7, constitutes one paystub for the week of 12/21/20 purporting to show Ms. Teruel’s earned commissions for 2020, and three “payroll summaries” presumably created by Ms. Cyr for 2021 – 2023. The payroll summaries are nothing more than conclusory numbers with no backup or other verifying data, no explanation as to how those numbers were arrived at, etc. *Id.* at 142-146. Ms. Cyr’s affidavit also provides no explanation for how this alleged overpayment could’ve possibly occurred, given the plain and unambiguous terms of Schiavi’s commission policy. No detail is provided as to which projects Ms. Teruel was overpaid on, when these overpayments occurred, etc., despite the fact that Schiavi is in possession of all of this information. Nor is there any evidence in the summary judgment record indicating that Defendant raised any alleged overpayment with Ms. Teruel at any time while she was employed or when she left the company until the instant lawsuit was filed.

In another footnote, Schiavi contends that the testimony of Ms. Wouri, Schiavi’s former Director of Finance, has no bearing on this issue because she “has not had access to or review of Schiavi’s records for over two years, does not purport to have personal knowledge of the terms of any compensation plans

executed by Plaintiff, did not sign any of Plaintiff's compensation plan documents," etc. *Appellee Brief* at 18, fn 4.

This line of argument entirely misses the mark. Ms. Wouri has provided testimony, based on her extensive personal knowledge, about Schiavi's commission policy, which is at the heart of this case. The commission policy for Ms. Teruel's position was exactly the same in all relevant respects during Ms. Wouri's tenure as Schiavi's Director of Finance as it was following her departure. Ms. Teruel's commissions were paid out in two equal installments, the first based on the projected profit for a project and the second based on actual profit. To the extent that the projected numbers at the front end of a project represented more than fifty percent of the actual profit at the end of the job, Ms. Teruel's back-end commission was adjusted downward to avoid any such overpayment. According to Ms. Wouri, who was directly involved in the processing of these commissions, there is simply no way that an overpayment could have occurred under Schiavi's policy, nor has Schiavi provided any explanation whatsoever as to how this happened.

Schiavi also argues that Ms. Teruel has not presented evidence that she was underpaid for her commissions. Schiavi has alleged for purposes of summary judgment that Ms. Teruel earned \$13,965.21 in commissions, but that she was actually paid \$18,912.32 for an overpayment of \$4947.11. *App.* pp. 11-13, ¶¶ 60 –

66. As set forth in detail above, Ms. Teruel vigorously disputes Schiavi's contention that she was overpaid and the rather shaky evidence upon which it rests, including without limitation the critical fact that Schiavi cannot explain how such an overpayment could have occurred under its self-correcting commission policy. If the factfinder at trial concludes that no overpayment occurred, Ms. Teruel would then be owed unpaid commissions for the nine unfinished SCB projects and the eight Coastline Homes projects for which she has not yet been paid. *App.* at 11, 14-15.

“An issue is genuine if there is sufficient evidence supporting the claimed factual dispute to require a choice between the differing versions; an issue is material if it could potentially affect the outcome of the matter.” *Brown Dev. Corp. v. Hemond*, 2008 ME 146, ¶ 10, 956 A.2d 104, 108. In this case, ample evidence has been adduced to allow the factfinder at trial to conclude that the alleged overpayment to Ms. Teruel never occurred and that Ms. Teruel is therefore entitled to her unpaid commissions. Accordingly, the trial court's summary judgment order should be vacated and this case remanded for trial.

II. MS. TERUEL IS ENTITLED TO HER EARNED COMMISSIONS FOR COASTLINE HOMES PROJECTS

Schiavi asserts that the trial court denied Ms. Teruel's 26(g) request for information related to Coastline Homes projects and other outstanding discovery that had been requested on June 12, 2024, months before the discovery deadline. The docket sheet confirms that the trial court never actually ruled on Ms. Teruel's 26(g) request, although it did deny her accompanying motion to extend the discovery period. *App.* p. 5. Ms. Teruel did not appeal this issue as, among other things, there is no ruling from the trial court to properly contest.

The sole basis for Schiavi's refusal to produce these records was its contention that Ms. Teruel worked for SCB, not Coastline Homes, and that therefore she is not entitled to any commissions for Coastline projects. *Id.* ¶¶ 25-26, 32, 182. The trial court ultimately rejected Schiavi's position in its MSJ Order, holding that Coastline Homes and SCB are the same company and that Coastline is just an assumed name for Defendant Schiavi. By extension, Schiavi's compensation policies confirm that she is entitled to commissions for Coastline jobs. *App.* at 8-9, fn. 2.

In light of the trial court's admission that Ms. Teruel is entitled to commissions on Coastline projects, she is clearly entitled to present evidence of same at trial. As set forth in Ms. Teruel's appellate brief, federal courts routinely allow wage and hour plaintiffs to present estimates of their unpaid wages at trial

when defendant employers fail to produce appropriate documentation from which these wages can be calculated. *Secretary of Labor v. DeSisto*, 929 F.2d 789, 792 (1st Cir. 1991). Schiavi contends that Ms. Teruel cannot present her estimate of Coastline commissions at trial because this procedure is found in federal cases discussing the Fair Labor Standards Act, which was not pled in the instant case. This Court has held repeatedly that “we may look to analogous federal statutes, regulations, and case law for guidance” in order to supplement gaps in Maine’s wage and hour jurisprudence. *Bocko v. University of Maine System*, 2024 ME 8, ¶ 30, 308 A.3d 203, 211-212; *Gordon v. Maine Cent. R.R.*, 657 A.2d 785, 786 (Me. 1995) (applying federal law and regulations to interpret Maine’s overtime statute); *Dir. of Bureau of Lab. Standards v. Cormier*, 527 A.2d 1297, 1300 (Me. 1987) (“While in no way bound by these cases, federal law does provide some useful guidance in formulating coherent state law concepts of ‘employer’ for purposes of enforcing [Maine’s minimum wage law].”).

After refusing to produce discovery on these projects, Schiavi now takes issue with Ms. Teruel’s estimated commissions, characterizing them as flawed, etc. In the first place, it bears repeating that given Schiavi’s refusal to produce discovery on this issue, Ms. Teruel was compelled to estimate these wages with the only information available to her, specifically the commissions paid to her on SCB projects.

Perhaps more to the point in the context of a summary judgment proceeding, Ms. Teruel's estimates firmly establish that there is a genuine issue of material fact as to whether Ms. Teruel is in fact owed money on these projects. This factual dispute as to the extent of wages owed must be resolved at trial, as the summary judgment process does not allow for fact finding. *Rose v. Parsons*, 2015 ME 73, ¶ 5, 118 A.3d 220, 221. "Summary judgment process is not a substitute for trial, even if the likelihood of success at trial by one party or another is small." *Id.* at ¶ 4. On summary judgment, the trial court is merely tasked with determining whether there are factual disputes that necessitate a trial. "When facts or reasonable inferences to be drawn from the facts are in dispute, the court must engage in fact-finding, and summary judgment is not available." *Id.*.

CONCLUSION

For the reasons set forth above, Plaintiff/Appellant Maritza Y. Teruel respectfully requests that the trial court's November 21, 2025 Order granting Defendant's motion for summary judgment be vacated in its entirety, and that this case be permitted to proceed to trial.

Dated: May 19, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that two copies of the Reply Brief of Plaintiff/Appellant Maritza Y. Teruel have been served this date upon counsel of record by mailing copies by first-class mail, postage prepaid, addressed as follows:

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Dated: May 19, 2026

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