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Penpac, Inc. v. County of Passaic

Superior Court of New Jersey, Appellate Division - December 27, 2013 - Not Reported in A.3d - 2013 WL 6817644

This appeal concerned the liability of Passaic County for one particular debt of the Passaic County Utilities Authority (PCUA or the Authority). Plaintiff Penpac, Inc., a waste management company, held a judgment against the PCUA for services rendered. Penpac appealed from an October 25, 2012 order granting summary judgment to Passaic County and dismissing Penpac's complaint seeking that the County pay the PCUA's debt of between one and two million dollars. Passaic County agreed to financially assist the Authority in a number of agreements, but refused to pay the PCUA's debt owed to Penpac.

Penpac made five arguments in opposition to the grant of summary judgment to the County. First, Penpac argued that defendant Passaic County has de facto dissolved the PCUA, and because the Municipal and County Utilities Authority Law (MCUA), N.J.S.A. 40:14B-1 to -69, requires that an authority's debts be paid upon dissolution, the County was now liable for all of the PCUA's debts. Second, Penpac argued that the County has assumed all of the PCUA's liabilities by operating the authority as a shell corporation. Third, Penpac maintained that the County had waived any statutory protection from the debts. Fourth, Penpac posited that the County had de facto merged with the PCUA. Finally, Penpac argued that the PCUA's corporate veil should be pierced. "The motion judge rejected these arguments and we affirm."