

IN THE COURT OF APPEALS OF IOWA

No. 9-486 / 08-1633
Filed July 22, 2009

DAY STAR JEWELRY, INC.,
Plaintiff-Appellant,

vs.

GREG HEATH,
Defendant-Appellee.

Appeal from the Iowa District Court for Black Hawk County, Thomas N. Bower and Richard D. Stochl, Judges.

Creditor appeals summary judgment awarded to debtor. **REVERSED AND REMANDED.**

Steven K. Daniels and Erin Patrick Lyons of Dutton, Braun, Staack & Hellman, P.L.C., Waterloo, for appellant.

Jay P. Roberts of Roberts, Stevens & Prendergast, P.L.C., Waterloo, for appellee.

Considered by Mahan, P.J., and Eisenhauer and Mansfield, JJ.

EISENHAUER, J.

On December 6, 2007, Day Star Jewelry, Inc. filed a petition alleging Greg Heath had failed to pay \$13,816.84 for an engagement ring. On January 15, 2008, Day Star filed an amended petition alleging Heath promised to pay the debt when he received an expected settlement and also promised to pay if Day Star would not file a lawsuit. Day Star alleged Heath breached these subsequent oral contracts. Day Star's amended petition also included allegations of equitable estoppel and unjust enrichment.

Heath moved for summary judgment and his motion was granted on September 9, 2008. The court ruled Day Star failed to bring suit within five years of the original oral contract and, therefore, had not met the applicable statute of limitations. Day Star appeals.

We review rulings on motions for summary judgment for errors at law. *Sain v. Cedar Rapids Cmty. Sch. Dist.*, 626 N.W.2d 115, 121 (Iowa 2001). Summary judgment is appropriate only when the entire record demonstrates that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Stevens v. Iowa Newspapers, Inc.*, 728 N.W.2d 823, 827 (Iowa 2007). We review the evidence in the light most favorable to the nonmoving party. *Id.*

Applying these principles, we conclude summary judgment is not appropriate. There is a factual dispute as to whether a subsequent oral

agreement was reached between the parties regarding payment of the outstanding debt.

REVERSED AND REMANDED.