

DEBRA A. McKAY

v.

JAMES F. BRADY et al.

Submitted on Briefs September 27, 2017
Decided October 17, 2017

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, JABAR, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Debra A. McKay appeals from a judgment entered by the Superior Court (Cumberland County, *Warren, J.*) in favor of James F. and Colleen A. Brady on McKay's complaint for declaratory relief and to quiet title, among other claims, and from its alternative finding in favor of the Bradys on their counterclaims of adverse possession and prescriptive easement as to the land on which the Bradys maintain and use a dock on Long Lake in Harrison. Contrary to McKay's contentions, regardless of the standard for determining the low water mark of Long Lake, the admitted evidence did not compel the court to find that she owns any of the land on which the dock sits, *see Snyder v. Haagen*, 679 A.2d 510, 514 (Me. 1996); *Stevens v. King*, 76 Me. 197, 199 (1884); *see also Williams v. Williams*, 2017 ME 94, ¶ 12, 161 A.3d 710; *Dickens v. Boddy*, 2015 ME 81, ¶ 12, 119 A.3d 722, and the court did not abuse its discretion in denying her motion to amend her complaint to allege the Bradys' breach of a covenant or restriction in their deed, *see M.R. Civ. P. 8(a)*, 15; *Paul v. Town of Liberty*, 2016 ME 173, ¶ 9, 151 A.3d 924. Although the court found, with evidentiary support, that the Bradys adversely possessed the dock property and obtained a prescriptive easement to use the dock, we need not reach this

issue on appeal because we affirm the court's finding that McKay failed to prove ownership of the property on which the dock sits and has been used.

The entry is:

Judgment affirmed.

Thomas L. Douglas, Esq., and Sarah A. McDaniel, Esq., Douglas McDaniel & Campo LLC, PA, Westbrook, for appellant Debra A. McKay

Elizabeth A. Germani, Esq., Germani Martemucci & Hill, Portland, for appellees James F. Brady and Colleen A. Brady

Cumberland County Superior Court docket number RE-2015-18
FOR CLERK REFERENCE ONLY