

SALLY CLARK-UTANS

v.

UNIVERSITY OF MAINE SYSTEM

Submitted on Briefs November 28, 2018

Decided December 6, 2018

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

#### MEMORANDUM OF DECISION

Sally Clark-Utans appeals from a judgment of the Superior Court (Franklin County, *Mullen, J.*) concluding that Clark-Utans failed to meet her burden of proving the elements of private nuisance against the University of Maine System following a two-day bench trial. Clark-Utans presents two challenges to the Superior Court's decision.

First, Clark-Utans argues that the Superior Court erred by allowing a line of questioning concerning a report that was not admitted in evidence. However, because Clark-Utans did not object to this line of questioning, the objection was not properly preserved for appellate review, and it is thereby waived. *See Homeward Residential, Inc. v. Gregor*, 2017 ME 128, ¶ 9, 165 A.3d 357.

Second, Clark-Utans raises a sufficiency of the evidence challenge. Because Clark-Utans had the burden of proof at trial, she can prevail on her challenge to the Superior Court's finding that her burden was not met *only if* she can demonstrate that the evidence compelled the court to make necessary

findings. *See St. Louis v. Wilkinson Law Offices, P.C.*, 2012 ME 116, ¶ 17, 55 A.3d 443. Contrary to her contentions, our review of the record before the Superior Court demonstrates that such findings were not compelled. Accordingly, the Superior Court's judgment must be affirmed.

The entry is:

Judgment affirmed.

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Sally Clark-Utans, appellant pro se

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for appellee University of Maine System

Franklin County Superior Court docket number CV-2013-17  
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