MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 24-89
Docket No. BCD-24-59

RANDY SLAGER et al.

v.

LORI L. BELL et al.

Argued September 10, 2024
Decided September 19, 2024

Panel: STANFILL, C.J., and MEAD, HORTON, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Randy Slager and Sybil Baird (collectively Slager) appeal from a judgment entered in the Business and Consumer Docket (*McKeon, J.*) in their favor on their complaint against Lori L. Bell and John W. Scannell (collectively Bell) alleging nuisance and trespass concerning a retaining wall and raised patio that Bell constructed on her property abutting Slager's property. The court awarded Slager nominal damages and injunctive relief. Contrary to Slager's contention, we conclude that on this record the court did not abuse its "wide discretion" in denying Slager's motions to have an engineer enter Bell's property and conduct testing on the retaining wall during the discovery process. *Pattershall v. Jenness*, 485 A.2d 980, 985 (Me. 1984); *see Pinkham v. Dep't of Transp.*, 2016 ME 74, ¶ 17, 139 A.3d 904.

Furthermore, the court did not err or abuse its discretion in limiting, on relevance grounds, the admissibility of evidence concerning whether Bell's project complied with the Town of Kennebunkport's zoning ordinance setback requirements to evidence relevant to Bell's intent. The court correctly allowed Slager to "introduce evidence relevant to [Bell's] state of mind, including [her] perception that the project met code as well as any evidence questioning the

strength of [her] perception." *See West v. Jewett & Noonan Transp., Inc.*, 2018 ME 98, ¶ 14, 189 A.3d 277 (stating that one element of a common law private nuisance claim is that "[t]he defendant acted with the intent of interfering with the use and enjoyment of the land by those entitled to that use" (quotation marks omitted)); *Est. of Kennelly v. Mid Coast Hosp.*, 2020 ME 115, ¶ 12, 239 A.3d 604 (stating that a trial court's relevance determination is reviewed for clear error); M.R. Evid. 403.

Finally, we discern no abuse of discretion in the court's denial of Slager's motion for further findings of fact and to alter or amend the judgment. *See* M.R. Civ. P. 52(b), 59(e). The court's extensive findings were "based on record evidence, . . . sufficient to support the result, and . . . sufficient to inform the parties and any reviewing court of the basis for the decision." *Flagg v. Bartlett*, 2024 ME 63, ¶ 20, --- A.3d --- (quotation marks omitted); *see Charette v. Charette*, 2013 ME 4, ¶ 17, 60 A.3d 1264 ("[A] trial court is not required to make further findings in response to every post-judgment request for findings . . . . If the court's original findings are sufficient to support its conclusions, and if those findings are supported by evidence in the record, a decision is sufficient if the findings of fact and conclusions of law appear therein." (quotation marks omitted)).

The entry is:

Judgment affirmed.

Andrew W. Sparks, Esq., and William J. Kennedy, Esq. (orally), Drummond & Drummond, LLP, Portland, for appellants Randy Slager and Sybil Baird

Rosie M. Williams, Esq. (orally), Thompson Bowie & Hatch LLC, Portland, for appellees Lori L. Bell and John W. Scannell

Business and Consumer Docket docket number RE-2019-14
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