

PEBBLEDENE TRUST et al.

v.

TOWN OF YORK et al.

Argued October 22, 2008
Decided December 4, 2008

Panel: SAUFLEY, C.J., and ALEXANDER, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Pebbledene Trust and Eileen Ceccanti appeal from the judgment of the Superior Court (York County, *Fritzsche, J.*) after a jury verdict in favor of the Town of York and five Town employees on claims of civil rights violations, pursuant to 5 M.R.S. § 4682 (2007) and 42 U.S.C. § 1983 (2000); assault and battery; intentional infliction of emotional distress; negligent infliction of emotional distress; negligence; common law trespass; statutory trespass, 14 M.R.S. § 7552 (2007); and invasion of privacy. They also appeal from the judgment entered in favor of the Town on the nonjury counts for a declaratory judgment, 14 M.R.S. § 5954 (2007), and a real action, 14 M.R.S. §§ 6801, 6802 (2007).

The action arose out of events that occurred when Eileen Ceccanti and her husband attempted to physically prevent Town employees from trimming a hedge that the court found was encroaching into a Town right-of-way. Contrary to the plaintiffs' arguments, (1) the evidence in the record supported the court and jury findings and did not compel a contrary result on issues on which the plaintiffs had the burden of proof, *Westleigh v. Conger*, 2000 ME 134, ¶ 12, 755 A.2d 518, 520; (2) the court was not required to hold or instruct the jury that the outer edge of the growing hedge constituted a boundary fence pursuant to 23 M.R.S. § 2952 (2007),

see Inhab. of Charlotte v. Pembroke Iron Works, 82 Me. 391, 395-96, 19 A. 902, 904 (1890); (3) the court properly admitted expert testimony as relevant and not speculative, *see Marquis v. Farm Family Mut. Ins. Co.*, 628 A.2d 644, 650 (Me. 1993); and (4) based on its findings, the court properly granted judgment for the Town defendants on the remaining trespass, tort, and civil rights claims.

The entry is:

Judgment affirmed.

**Attorney for Pebbledene Trust and
Eileen Ceccanti:**

Peter Clifford, Esq. (orally)
Hodsdon & Clifford, LLC
56 Portland Road
Kennebunk, Maine 04043

**Attorneys for the Town of York, Leon Moulton,
Marvin Swain, James Moody, Brent Goodwin,
and Randolph Earle:**

Edward R. Benjamin, Jr., Esq.
Jason P. Donovan, Esq. (orally)
Thompson & Bowie, LLP
Three Canal Plaza
PO Box 4630
Portland, Maine 04112