

DEPARTMENT OF TRANSPORTATION

v.

ANDREA M. LAPOINTE et al.

Submitted on Briefs April 30, 2008
Decided May 15, 2008

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

MEMORANDUM OF DECISION

Andrea M. Lapointe and Michael T. Barden (collectively Lapointe) appeal from a judgment of the Superior Court (Kennebec County, *Studstrup, J.*) granting MDOT's motion for summary judgment on its complaint seeking injunctive relief against Lapointe for maintaining a public nuisance and trespass. Lapointe also appeals the court's post-judgment order granting MDOT's motion to enforce the judgment. Contrary to Lapointe's contentions, the motion court did not err in concluding that the record revealed no genuine issue of material fact concerning the existence of a nineteen-foot railroad easement over Lapointe's land held by MDOT, *see Morgan v. Kooistra*, 2008 ME 26, ¶ 19, 941 A.2d 447, 453, nor did it err in finding that personal property maintained by Lapointe within the easement created a public nuisance and constituted a trespass, *see Simmons, Zillman & Gregory, Maine Tort Law* § 14.03 at 14-10 (2004 ed.) ("Obstructing a public way is a public nuisance.") (collecting cases); *Collomy v. Sch. Admin. Dist. No. 55*, 1998 ME 79, ¶ 6, 710 A.2d 893, 895 (trespasser is "a person who enters or remains upon land in the possession of another without a privilege to do so" (quotation marks omitted)).

The entry is:

Judgment affirmed.

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