

DARLENE COPP

v.

SCOTT A. LIBERTY et al.

and

SCOTT A. LIBERTY

v.

JEFFREY BENNETT et al.

Submitted on Briefs January 28, 2010

Decided February 2, 2010

Panel: ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Darlene Copp appeals from a judgment of the Superior Court (Cumberland County, *Delahanty, J.*) partially denying her special motion to partially dismiss, pursuant to 14 M.R.S. § 556 (2009), counterclaims that Scott A. Liberty filed against her. In a consolidated case, Jeffrey Bennett and the Bennett Law Firm, P.A., appeal from a judgment denying Bennett's special motion to partially dismiss, pursuant to the same statute, claims that Liberty filed against him. Section 556, which is known as Maine's anti-SLAPP statute (Strategic Lawsuit Against Public Participation), "is designed to guard against meritless lawsuits brought with the intention of chilling or deterring the free exercise of the defendant's First Amendment right to petition the government." *Schelling v. Lindell*, 2008 ME 59, ¶ 6, 942 A.2d 1226, 1229.

As to counts I of Liberty's claims against them, Copp and Bennett met their initial burden of showing that those counts were based solely on petitioning activity, within the meaning of the anti-SLAPP statute. *See id.* ¶ 7, 942 A.2d at 1229; *see also Cadle Co. v. Schlichtmann*, 859 N.E.2d 858, 863-64 (Mass. 2007) (holding that the moving party must show through affidavits and pleadings that the claims being challenged under the anti-SLAPP statute are "based on the petitioning activities alone and have no substantial basis other than or in addition to the petitioning activities" (quotation marks omitted)). However, viewing the pleadings and affidavits in a light most favorable to Copp and Bennett, *see Morse Bros., Inc. v. Webster*, 2001 ME 70, ¶ 18, 772 A.2d 842, 849, Liberty met his burden of showing that certain of their petitioning activities, relevant to counts I, were without reasonable factual support or arguable basis in law and resulted in actual injury, *see* 14 M.R.S. § 556; *Schelling*, 2008 ME 59, ¶ 7, 942 A.2d at 1229.

As to counts VII of Liberty's claims against them, Copp and Bennett did not meet their initial burden of showing that those counts were based solely on their petitioning activities. *See Schelling*, 2008 ME 59, ¶ 7, 942 A.2d at 1229; *see also Cadle Co.*, 859 N.E.2d at 864.

Thus, finding no errors of law or abuses of discretion in the court's partial denial of Copp's motion or the denial of Bennett's motion, we affirm both judgments. *See Maietta Constr., Inc. v. Wainwright*, 2004 ME 53, ¶ 8, 847 A.2d 1169, 1173 ("We review the judge's decision regarding such a special motion to dismiss to determine whether there was an abuse of discretion or error of law." (quotation marks omitted)).

The entry is:

Judgments affirmed.

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