

SUPREME JUDICIAL COURT OF MAINE

Maietta Construction, Inc. v. Wainwright, 2004 ME 53

847 A.2d 1169 (Me. 2004) · Decided April 15, 2004

SUMMARY

The Supreme Judicial Court of Maine affirmed dismissal of Maietta Construction's claims for defamation, intentional infliction of emotional distress, false light, interference with an advantageous relationship, and punitive damages under Maine's anti-SLAPP statute. The court held that the defendants' communications to municipal officials and the press constituted petitioning activity supported by an arguable factual and legal basis, and that the plaintiffs failed to provide evidence of actual damages. The court also affirmed the trial court's discretionary award of attorney fees to one defendant but not the other.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Rudman, J.; Saufley, C.J.; Clifford, J.; Dana, J.; Alexander, J.; Calkins, J.; Levy, J.
JURISDICTION	Maine
DECIDED	April 15, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Maietta appealed from a Superior Court judgment dismissing its claims against Theodore Wainwright. Wainwright cross-appealed the denial of attorney fees under Maine's Anti-SLAPP statute.
STANDARD OF REVIEW	The court reviews a decision on a special Anti-SLAPP motion to dismiss for abuse of discretion or error of law, viewing the evidence in the light most favorable to the moving party because the responding party bears the burden when the statute applies. Attorney-fee determinations are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Maietta Construction, Inc., Louis Maietta Sr., Robert L. Maietta, Michael L. Maietta, Louis B. Maietta Jr., Vincent A. Maietta, Thomas S. Maietta, James D. Maietta, Robert D. Maietta, Neil L. Maietta v. Theodore Wainwright

TOPICS

motions to dismiss first amendment defamation attorney fees statutory interpretation

PRACTICE AREAS

Civil procedure First Amendment Defamation Attorney fees Statutory interpretation

QUESTIONS PRESENTED

1. Whether Maine's Anti-SLAPP statute, 14 M.R.S.A. § 556, applied to Maietta's claims based on Wainwright's communications to city officials and the press.
2. Whether Wainwright's petitioning activity had a reasonable factual basis or arguable basis in law.
3. Whether section 556 requires the responding plaintiff to show actual injury, rather than presumed damages or damages per se.
4. Whether the Superior Court abused its discretion by awarding attorney fees to Lourie but declining to award attorney fees to Wainwright.

HOLDINGS

1. Communications to the South Portland City Council, mayor, and local media concerning alleged violations of deed and contract restrictions constituted petitioning activity within the scope of 14 M.R.S.A. § 556.
2. The trial court properly concluded that Wainwright's petitioning activity had an arguable legitimate factual basis because affidavits stated that he personally observed soil removal and photographs purported to document removal of loam.
3. Damages presumed for defamation per se are not equivalent to actual damages under section 556; a plaintiff must produce affirmative evidence from which the amount of actual injury can be determined with reasonable certainty.
4. The attorney-fee provision of section 556 is permissive, not presumptive; a trial court may award fees in its discretion and does not abuse its discretion by awarding fees to one Anti-SLAPP movant while denying them to another based on the relative merit of the claims.

KEY QUOTATIONS

“The Superior Court was required to dismiss Maietta's complaint unless Maietta could show that there was no reasonable factual basis for Wainwright's petitioning.” (1173)

“Therefore, the Legislature imposed the requirements of section 556 understanding that they would require plaintiffs to produce affirmative evidence of an injury.” (1174)

“The grant of attorney fees in section 556 is permissive, not presumptive, and therefore the trial court did not exceed the bounds of its discretion by awarding attorney fees to Lourie or by declining to award attorney fees to Wainwright.” (1176)

FACTUAL BACKGROUND

Wainwright conveyed 150 acres of his former farm to the City of South Portland subject to a restriction against removing soil or loam. Maietta Construction obtained a contract to develop the property into a recreational complex, and that contract likewise prohibited removal of topsoil or loam. Believing Maietta was removing loam in violation of the deed restriction and contract, Wainwright complained to city officials and, through his attorney, contacted local media. Maietta sued based on the resulting statements and reports.

PROCEDURAL HISTORY

Maietta sued Wainwright and his attorney, David Lourie, for defamation, intentional infliction of emotional distress, false light, interference with an advantageous relationship, and punitive damages based on statements concerning alleged removal of loam from property conveyed to South Portland. Wainwright and Lourie filed special motions to dismiss under 14 M.R.S.A. § 556. The Superior Court dismissed Maietta's claims, awarded attorney fees to Lourie, and denied fees to Wainwright. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Morse Bros. v. Webster, 2001 ME 70, 772 A.2d 842
- Lafayette Morehouse, Inc. v. Chronicle Publishing Co., 37 Cal. App. 4th 855, 44 Cal. Rptr. 2d 46 (1995)
- Dixon v. Superior Court, 30 Cal. App. 4th 733, 36 Cal. Rptr. 2d 687 (1994)
- Duracraft Corp. v. Holmes Products Corp., 427 Mass. 156, 691 N.E.2d 935 (1998)
- Rippet v. Bemis, 672 A.2d 82 (Me. 1996)
- Dairy Farm Leasing Co. v. Hartley, 395 A.2d 1135 (Me. 1978)
- McDougal v. Hunt, 146 Me. 10, 76 A.2d 857 (1950)
- Meyer v. Holley, 537 U.S. 280 (2003)
- Lee v. Scotia Prince Cruises Ltd., 2003 ME 78, 828 A.2d 210
- Goodwin v. School Administrative District No. 35, 1998 ME 263, 721 A.2d 642
- Vance v. Speakman, 409 A.2d 1307 (Me. 1979)
- Cole v. Chandler, 2000 ME 104, 752 A.2d 1189
- Rice v. Alley, 2002 ME 43, 791 A.2d 932
- Bangs v. Town of Wells, 2003 ME 129, 834 A.2d 955
- Hensley v. Eckerhart, 461 U.S. 424 (1983)