

SUPREME JUDICIAL COURT OF MAINE

Robert M.A. Nadeau v. Lynnann Frydrych

2014 ME 154 (2014) · No. Yor-14-124 · Decided December 31, 2014

SUMMARY

The Maine Supreme Judicial Court vacated the dismissal of Robert M.A. Nadeau’s complaint seeking protection from harassment against Lynnann Frydrych. The court held that, accepting the complaint’s allegations as true and viewing them favorably to Nadeau, he alleged sufficient facts to survive a motion to dismiss, and it therefore also vacated the related award of attorney fees and costs.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Per Curiam; Saufley, C.J.; Alexander, J.; Mead, J.; Gorman, J.; Jabar, J.; Hjelm, J.
JURISDICTION	Maine
DECIDED	December 31, 2014
DOCKET	Yor-14-124
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from the York District Court's dismissal with prejudice of a complaint for protection from harassment and its award of attorney fees and costs to the defendant.
STANDARD OF REVIEW	The court reviewed the legal sufficiency of the complaint de novo, viewing the alleged facts as admitted and in the light most favorable to the plaintiff.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Robert M.A. Nadeau v. Lynnann Frydrych

TOPICS

- motions to dismiss
- pleadings
- attorney fees
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- protection from harassment
- appellate procedure
- attorney fees

QUESTIONS PRESENTED

1. Whether Nadeau's complaint alleged sufficient facts to survive a motion to dismiss under M.R. Civ. P. 12(b)(6) and 5 M.R.S. § 4651(2)(A).
2. Whether the award of attorney fees and costs could stand when it was based at least in part on the conclusion that the complaint lacked a legal basis.
3. Whether the unpreserved stalking theory could be considered on appeal.

HOLDINGS

1. A complaint seeking protection from harassment survives a Rule 12(b)(6) motion when, viewed in the light most favorable to the plaintiff, it alleges facts creating a reasonable inference of three or more acts of intentional intimidation, including nonphysical acts that the plaintiff interpreted as directly threatening. Nadeau's allegations met that threshold.
2. The award of attorney fees and costs must also be vacated because it rested at least in part on the erroneous conclusion that Nadeau's complaint lacked a legal basis.

KEY QUOTATIONS

“Such questions are reserved for the fact-finder and can be addressed only following a trial on the merits of the complaint.” (¶ 8)

“Based on a de novo review of the complaint and viewing the allegations in the light most favorable to Nadeau, the allegations in the complaint are sufficient to overcome a 12(b)(6) motion to dismiss.” (¶ 9)

FACTUAL BACKGROUND

After the end of Nadeau and Frydrych's personal relationship, Nadeau alleged in a twenty-three-page attachment that Frydrych engaged in several incidents of harassment. He filed a complaint for protection from harassment, but the District Court dismissed it for failure to sufficiently allege harassment and awarded Frydrych attorney fees and costs. The Supreme Judicial Court considered the allegations as true for purposes of the motion to dismiss and did not assess their credibility or provability.

PROCEDURAL HISTORY

Nadeau filed a complaint for protection from harassment under 5 M.R.S. § 4652. The District Court dismissed the complaint under M.R. Civ. P. 12(b)(6) after a non-testimonial hearing and awarded Frydrych \$7,257.50 in attorney fees and costs. Nadeau timely appealed to the Supreme Judicial Court of Maine.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The judgment and order awarding attorney fees are vacated. The matter is remanded for further proceedings consistent with the opinion, including consideration on the merits and, if appropriate, the effect of the missing cease-harassment notice or good-cause statement.

CASES CITED

- Berg v. Bragdon, 1997 ME 129, ¶ 9, 695 A.2d 1212
- Ramsey v. Baxter Title Co., 2012 ME 113, ¶¶ 2, 6, 54 A.3d 710
- McCormick v. Crane, 2012 ME 20, ¶ 5, 37 A.3d 295
- Saunders v. Tisher, 2006 ME 94, ¶ 8, 902 A.2d 830
- Howe v. MMG Ins. Co., 2014 ME 78, ¶ 9, 95 A.3d 79
- Staples v. Michaud, 2003 ME 133, ¶¶ 3, 10-12, 836 A.2d 1288
- Jefts v. Dennis, 2007 ME 129, ¶¶ 7-8, 931 A.2d 1055