STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. OXF-23-366

DELANNA GAREY

Plaintiff-Appellant

v.

STANFORD MANAGEMENT, LLC, ET AL.

Defendants-Appellees

On Appeal from the Superior Court (Oxford) No. CV-23-023
Docket No. OXF-23-366

BRIEF OF APPELLEES

February 8, 2024

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STATEMENT OF FACTS AND PROCEDURAL HISTORY

Appellee Stanford Management, LLC ("Stanford Management") manages residential rental properties, including a property located at 20 Congress Street, Rumford, Maine, known locally as the Muskie Building. (Appendix ("A") 18, ¶ 4.) Ms. Delanna Garey ("Ms. Garey") is a former employee of Stanford Management who worked in the Muskie Building as a manager. (A. 18, ¶ 7.)

On or about February 6, 2023, Stanford Management requested that the Rumford Police Department issue a Criminal Trespass Notice ("the Trespass Notice") prohibiting Ms. Garey from entering the premises. (A. 19, ¶ 10; A. 27.) The Notice stated, in part: "To: Delanna Garey You are hereby forbidden from entering or remaining in or on the premises described below in defiance of this lawful order personally communicated to you by virtue of this notice. This notice is EFFECTIVE IMMEDIATELY for one year." (A. 27.) This notice was posted on the doors entering the Muskie Building on or about March 8, 2023. (A. 19, ¶ 11.) Appellee Ms. Eve Dunham ("Ms. Dunham"), Stanford Management's Director of Operations, published a letter ("the Letter") to residents on or about the same date. (A. 18, 19 ¶¶6, 12.) The Letter stated, in relevant part:

> In accordance with these changes and as a result of the behavior of former employees, Stanford Management has had to take legal and procedural steps to protect our current employees, tenants, and community as a whole. **As a result of these changes, effective**

> **immediately, no former employees, are permitted on the premises or within the building at any time, without prior written consent from either the Company Owner, President, Vice President, or Director of Operations.**

(A. 29.)

On March 10, 2023, Ms. Garey's aunt, Lynn Lepage-Fitzpatrick, sent an email ("the Email") to Ms. Dunham asking whether the criminal trespass notice had been served on Ms. Garey "due to personal reasons or for truly professional reasons." (A.20, ¶ 19, A. 30.) Ms. Dunham responded "Amanda is not an officer of the state and does not have authority to issue any kind of legal order. That determination and action was made by the Rumford Police Department." (A. 30.)

Ms. Garey filed this action in Oxford Superior Court on May 16, 2023, alleging that Stanford Management's actions constituted defamation, false light invasion of privacy, and intentional infliction of emotional distress, and also asserting claims for punitive damages, declaratory relief, and injunctive relief. Stanford Management and Ms. Dunham (collectively "Appellees") filed their Motion to Dismiss on June 8, 2023. Ms. Garey filed her Opposition to the Motion to Dismiss on June 27, 2023. On September 21, 2023, the Oxford Superior Court granted Appellees' Motion to Dismiss in its entirety. Ms. Garey filed her notice of appeal on September 25, 2023. Ms. Garey's Appeal Brief was submitted to this Court on December 21, 2023. (A. 3-4.)

STATEMENT OF ISSUES PRESENTED FOR REVIEW[1]

I. Did the Superior Court correctly decide that Ms. Garey failed to state a claim of defamation?

II. Did the Superior Court correctly decide that Ms. Garey failed to state a claim of false light invasion of privacy?

III. Did the Superior Court correctly decide that Ms. Garey lacks standing to bring claims for declaratory judgment or injunctive relief in this matter?

SUMMARY OF ARGUMENT

For the reasons stated by the Superior Court in its decision, Ms. Garey's claims were properly dismissed. The statements Ms. Garey alleges are defamatory are incapable of being proven false and/or they are non-actionable statements of opinion. Further, even if the statements could somehow be construed as defamatory, the statements are conditionally privileged. Ms. Garey's claim of false light invasion of privacy fails because Ms. Garey's allegations cannot, as a matter of law, be viewed as highly offensive to a reasonable person. Likewise, the false light invasion of privacy claim shares some overlap with the defamation claim, as the statements once again are conditionally privileged. Finally, Ms. Garey lacks standing with respect to

[1] Ms. Garey also brought a claim for Intentional Infliction of Emotional Distress but states in Footnote 1 of her brief that Ms. Garey is not challenging the Court's dismissal of that Count. Additionally, Ms. Garey had asserted a claim for punitive damages which was also dismissed by the Superior Court. Ms. Garey does not raise the issue in her Appellant's Brief and therefore does not appear to challenge the decision of the Superior Court holding that punitive damages do not constitute a separate cause of action. Order at 10; *see also S. Port Marine, LLC v. Gulf Oil Ltd. P'ship*, 234 F.3d 58, 64 (1st Cir. 2000)").

her request for a declaratory judgment and/or injunctive relief, which also are not recoverable claims anyway. For purposes of responding to Ms. Garey's assertions, Appellee's brief will follow the structure of the Superior Court's well-reasoned opinion.

ARGUMENT

I. DEFAMATION (COUNT I)

Ms. Garey's defamation arguments ignore the body of Maine law that defines the contours of appropriate defamation claims in an effort to turn her claim into something it is not. Specifically, Ms. Garey endeavors in her brief to characterize the relevant issue as one of simple notice pleading without acknowledging the legal requirements for a defamation cause of action, and she wrongfully concludes that the Court "erred in holding Garey's complaint, to a higher, incorrect standard". (Brief of Appellant ("Garey Br.") p. 11). Repeating an argument that Appellant made in her memorandum in opposition to the Motion to Dismiss, Appellant asserts that Ms. Garey's burden should be the same standard applicable to pleading a general negligence claim. (Garey Br. p. 11) ("For instance, 'a general allegation of negligence at a stated time and place will suffice in a motor vehicle tort case.").

The matter at hand is not a general negligence case and is not comparable to a general negligence case. Instead, Ms. Garey has asserted a claim of defamation, and

she must show that her asserted cause of action is capable of being proven. In her Complaint, she must allege the elements of a claim for defamation, specifically:

> (1) A false and defamatory statement concerning another;
> (2) An unprivileged publication to a third party;
> (3) Fault amounting at least to negligence on the part of the publisher; [and]
> (4) Either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.

Waugh v. Genesis Healthcare LLC, 2019 ME 179, ¶ 10, 222 A.3d 1063 (alteration in original). That is a distinctly different burden of pleading than that of a negligence claim and, as determined by the Superior Court and as described below, Ms. Garey has failed to carry this burden.

In addition to trying to apply a general negligence notice pleading standard to her defamation claim, Ms. Garey also attempts to modify what a defamation claim needs to articulate under Maine law. In her Appellant's Brief, her only comment on the pleading standard that applies to a defamation claim (as opposed to a basic negligence claim) is an out-of-context reference to dicta in a case that does not touch on the relevant legal issues at all. Specifically, Ms. Garey cites Marston v. Newavom and states that a principle requiring plaintiffs to "prove defamatory words strictly as alleged 'is suspect in light of modern notice pleading and increased reliance on discovery.' Marston v. Newavom, 629 A.2d 587, 591 (Me. 1993). Ms. Garey cited the Marston case in her Opposition Memo as well, but the Superior Court correctly

recognized that the holding in Marston is not relevant to the circumstances of this case.

The principle set forth in Marston is distinguishable from the facts of the matter here, as is the case it cites as the origin of the 'strictly as alleged' standard, Estes v. Estes 75 Me. 478 (1883). Both cases involved the comparison of the allegations contained in the complaint to actual testimony at trial. The Estes court refused to find defamation where the plaintiff's allegation ("you burnt *your* buildings") did not match the testimony offered at trial ("you burnt *the* buildings"). The Estes Court held this difference "materially qualified the character of the charge". Estes at 481. In Marston, this Court noted that the Estes standard had been "relaxed in Kimbell v. Page, 96 Me. 487, 52 A. 1010 (1902)" which held "that 'material words, those essential to the charges made, must be proved as alleged, but that some latitude may be allowed with respect to unimportant, connecting or descriptive words.'" Marston fn 7. The Marston Court considered whether a statement made at a going away party for an employee matched the complaint allegations, holding "Contrary to defendants' allegations, the trial testimony does not differ materially or substantially from the language alleged in the complaint." Marston at 591.

The principle Marston set forth is not relevant to the issues at hand here. Neither party is disputing the *content* of the statements Ms. Garey alleges were communicated. Ms. Garey instead attempts to set forth a new *interpretation* of the

statements in an effort to create a defamatory meaning. Were the Court to adopt Ms. Garey's expanded reading of Marston and allow her claims to survive a motion to dismiss, the result could be a flood of frivolous defamation filings based on assertions as to possible interpretations of the statements at issue, resulting in a waste of judicial resources.

Against the backdrop of the broader issues regarding pleading of defamation claims discussed above, the Superior Court correctly held that Ms. Garey failed to state a defamation claim upon which relief can be granted. There are three distinct alleged defamatory statements at issue in this case. These statements are: 1) the criminal trespass notice posted on the exterior of the Muskie Building; 2) the Letter sent to Muskie Building residents; and 3) the Email from Ms. Dunham to Ms. Lepage-Fitzpatrick. The Court should consider each of the statements at issue independently, and when doing so, it is apparent that none are actionable defamatory statements.

A. The Trespass Notice and Email are non-defamatory statements as a matter of law, as they are incapable of being proven false.

The Superior Court correctly concluded that the statements contained in the Trespass Notice and Email cannot be proven false and, accordingly, cannot be defamatory statements. "The plaintiff in a defamation case must prove that the

published statements made were defamatory*...[and] that the defamatory statements are false*." Ballard v. Wagner, 2005 ME 86, ¶ 10, 877 A.2d 1083 (emphasis added).

The Trespass Notice states that Ms. Garey is "forbidden from entering or remaining in or on the premises." (A. 27). Significantly, there is nothing stated indicating anything that Ms. Garey did or did not do. There is nothing in the notice that Ms. Garey can show is untrue. Similarly, the Email from Ms. Dunham to Ms. LePage-Fitzpatrick is not capable of being proven false. The Email states "A. Amanda is not an officer of the state and does not have authority to issue any kind of legal order. That determination and action was made by the Rumford Police department." (A. 30). As the Superior Court found, Plaintiff cannot prove that the statement that the trespass order was issued by the Rumford Police Department is false.

Further, the Email simply states common knowledge that police departments issue trespass notices, not individuals. The form includes a signature block for an officer of the Rumford Police Department to sign beneath the statement notifying Ms. Garey that by "lawful order" she is forbidden to trespass. (See A. 27.) It is common sense that individuals cannot force police departments to sign or issue trespass notices; that has to be a conscious and deliberate act by the Rumford Police Officer signing the form, and that Stanford is not authorized to sign the notice on behalf of the Rumford Police Department. The reality that Police departments follow

their own regulations, processes and procedures, and do not blindly issue orders at the direction of local citizens is appropriate for judicial notice as it is something commonly known in the community and is accepted by the general public. See Seymour v. Seymour, 2021 ME 60 at ¶ 17, 263 A.3d 1079, 1085 (stating that for matters of "common knowledge," the proper inquiry is "whether the fact is accepted by the general public"). See also Bailey v. Bd. of Bar Examiners, 2014 ME 58 n.4, 90 A.3d 1137, 1145 n.4. ("Pursuant to M.R. Evid. 201, we take judicial notice of the publicly available federal tax liens"). See also Casinos No! v. State, No. CIV.A. AP-02-069, 2003 WL 1624656, at *2 (Me. Super. Feb. 10, 2003) ("I can take judicial notice that the issue of casino gambling has been and, if the question is ultimately put to the voters, will be perhaps the most thoroughly debated and controversial referendum question in recent memory.")

Beyond the fact that Ms. Garey attempts to stretch defamation law beyond its reasonable bounds, to permit claims to proceed based on the statements at hand would cause a considerable public policy dilemma for entities and individuals seeking protective legal notices. A ruling that holds, in effect, that posting a trespass order and/or that confirming that the order was issued by the local police can constitute defamation would mean that any person or entity seeking such protection may be subject to defamation claims for exercising their legal right to ask for help from local law enforcement if and when local police authorities agree to help. The Court was

correct in holding that the Trespass Notice and the Email cannot be found to be defamatory.

B. The statements in the Letter are opinion and therefore cannot be defamatory.

The Superior Court correctly concluded that an alternative basis for determining that the statements in the Letter cannot be defamatory is the fact that they contain statements of opinion, which cannot support the element of the cause of action that requires a false statement of fact. In Maine "Our standard looks to the totality of the circumstances: [A] comment…is an opinion if it is clear from the surrounding circumstances that the maker of the statement did not intend to state an objective fact but intended rather to make a personal observation of the facts." Lester v. Powers, 596 A.2d 65, 71 (Me. 1991) (citing Caron v. Bangor Pub. Co., 470 A.2d 782, 784 (Me. 1984)); Halco v. Davey, 2007 ME 48 ¶ 14, 919 A.2d 626, 630-631 (citing Lester v. Powers in holding that because plaintiff's alleged statements were statements of opinion, "they neither establish a claim for false light invasion of privacy…nor defamation…" (internal citations omitted)).

The Letter did not state what Ms. Garey or any other former employees did or did not do. As the Superior Court found, the Letter only reflected the opinion of the Director of Operations of Stanford Management that the "behavior of former employees" made it necessary "to take legal and procedural steps to protect our

current employees, tenants, and community as a whole" to explain why former employees would no longer be permitted on the premises without advance written permission. As stated by the Superior Court, what was written by the Director of Operations "denotes an exercise of management's personal judgement and should thus be considered a statement of opinion." Cheng v. Neumann, 51 F.4th 438, 446 (1st Cir. 2022) ("[C]ourts are 'likely' to stamp as 'opinion' statements involving 'expressions of personal judgment, especially as the judgments become more vague and subjective in character.") quoting Gray v. St. Martin's Press, Inc., 221 F.3d 243, 248 (1st Cir. 2000)). *See also* Lightfoot v. Matthews, 587 A.2d 462, 462 (Me. 1991) (holding that calling the board of a homeless shelter "lackluster" "…cannot reasonably be construed as a statement of objective fact".)

The Superior Court concluded that the Letter was quite vague indeed, noting that the statement is too vague to support Ms. Garey's suggested interpretation of the word "protect" in the "most negative way possible." (A. 9.) As the Superior Court held, as a matter of law, the Letter presents non-actionable statements of opinion.

C. The statements in the Letter are subject to multiple interpretations and therefore cannot be defamatory.

Ms. Garey asserts "Whether a statement is 'capable of a defamatory meaning is a question for the court…' When a statement is capable of a defamatory meaning, then it is up to the jury to decide whether the statement did in fact carry that meaning

to the listener or reader." Haworth v. Feigon, 623 A.2d 150, 156 (1993). Haworth overall, and particularly the language cited by Ms. Garey, is inapposite in this case as Haworth involved homeowners telling a builder's customer that the builder was a "drunk" and stating the builder's crew, in fact, had a habit of arriving to job sites in the morning and drinking on the job. Id. The Haworth statements are easily distinguishable from those made by the Appellees here, as the Haworth remarks consisted of factual statements that were only capable of a single meaning.

This Court has found language more charged than that at issue here to not be defamatory because the language is subject to multiple meanings. See Bakal v. Weare, 583 A.2d 1028, 1030 (Me. 1990) ("We reject Bakal's approach that interprets the word 'threats' in the most negative possible way to mean threats of physical violence. Weare's statement is simply too vague to bear such an interpretation.") See also Chapman v. Gannett, 132 Me. 389, 171 A. 397, 398 (1934).

Other courts have determined that statements legally cannot be considered defamatory because the statements were subject to multiple meanings. By way of example, the Maine Federal District Court, applying Maine law, has granted motions on the pleadings in favor of defendants where a statement could be subject to multiple interpretations, instead of allowing litigation to proceed:

> The statement at issue here - that an email authored by the plaintiff was "false"—was not slanderous per se. Stripped of any additional explanatory or contextual information, the statement can be reasonably understood by people

> of ordinary intelligence to mean that Abdullahi's email was either untrue or intentionally untrue…While the latter meaning could give rise to a slanderous statement if the statement is proven false, the former does not.

Abdullahi v. Time Warner Cable, Inc., No. 2:13-CV-00440-JDL, 2014 WL 3341350, at *2 (D.Me. July 8, 2014).

Similarly, the First Circuit has held that statements with multiple meanings "may not be based solely on a reading that interprets the language in the most negative way possible" to support a defamation claim. Veilleux v. Nat'l Broadcasting Co., F.3d 92, 108 (1st Cir. 2000) (citing Bakal v. Weare, 583 A.2d 1028, 1030 (Me. 1990)). Moreover, the First Circuit has held that more pointed statements than those at issue here have multiple meanings and constitute opinion. *See* Cheng v. Neumann, 51 F. 4th 438, 446 (1st Cir. 2022) ("The remaining statements are not actionable because they are expressions of opinion and are unprovable as false. 'Right-wing,' 'far-right,' and 'conspiracy theorist' are vague, judgement-based terms that 'admit[ ] of numerous interpretations' and are not objectively provable as false.')

Here, the Letter states that former employees will no longer be permitted access to the building. It states that in accordance with recent staffing changes, "and as a result of the behavior of former employees, Stanford Management has had to take legal and procedural steps to protect our current employees, tenants, and community as a whole." (A. 19, ¶ 13 & A. 29.) Ms. Garey asks the Court to read this

in the most negative light possible, contrary to the principles articulated in Veilleux, by asserting:

> A reasonable reader of the March 8 Letter could and would reasonably infer Dunham and Stanford to be stating that Garey had engaged in behavior that was so dangerous or threatening as to force Stanford to take legal action to protect not only its employees from Garey but also to protect the tenants and the 'community as a whole' from Garey."

(A. 19-20, ¶ 16.)

The Superior Court expressly rejected this assertion because Ms. Garey was interpreting the Letter in the most negative way possible. (A. 9) ("The Court rejects this interpretation, which interprets the word "protect" in the most negative way possible."). There are many other possible meanings the Director of Operation's statement could have. For example, Stanford Management might be focused simply on trying to protect residents and current employees from socially awkward or otherwise uncomfortable interactions with Ms. Garey or other former employees. And similar to the Court's determination in Bakal, "protect" certainly does not exclusively refer to protection against physical violence. *See* Bakal, 583 A.2d at 1030 (rejecting plaintiff's interpretation of the word "threats" to mean physical violence where that was the most negative interpretation).[2] For these reasons, the Superior

[2] We note that Ms. Garey wants the Court to interpret "protect" to mean that Stanford was saying that Ms. Garey was engaged in "threatening behavior," but this Court has previously ruled in Bakal that "threats" (a variation of "threatening") itself may mean different things, not all of which meanings can be considered defamatory. *See* Bakal, 583 A.2d at 1030. Essentially Ms. Garey is asking the Court to find Stanford's language to be defamatory by adopting the most negative interpretation of the word that reflects what Ms. Garey considers to be the most negative interpretation of the word Stanford actually used to describe unnamed individuals.

Court was correct in holding the language in the Letter was too vague to support Ms. Garey's interpretation that "protect" can only mean that the Ms. Garey was engaged in "dangerous and threatening" behavior. Not only were those words never used by Stanford Management in describing the behavior of any of the "former employees" referenced in the Letter, Stanford Management did not even describe any behavior or conduct at all.

D. Even if the statements are actionable, they are subject to a conditional privilege.

For all the foregoing reasons, the Superior Court correctly held that the statements are not actionable for a claim of defamation. However, even if that were not the case, the Superior Court also was correct in holding that Stanford Management and Ms. Dunham had a conditional privilege in posting the Trespass Notice and publishing the Letter and Email statements. Maine courts have identified conditional privilege as:

> … aris[ing] in settings where society has an interest in promoting free, but not absolutely unfettered, speech… If a conditional privilege exists, liability for defamation attaches only if the person who made the defamatory statements loses the privilege through abusing it. See Restatement § 599. Such an abuse occurs when the person either knows the statement to be false or recklessly disregards its truth or falsity. Restatement § 600.

Lester v. Powers, 596 A.2d 65, 69 (Me. 1991) (internal citations omitted).

Here, the Superior Court correctly found that Stanford Management, and by extension Ms. Dunham, "had an important interest in notifying residents that [Ms. Garey was] legally prohibited from entering the building". (A. 10.) Stanford Management had an obligation to make residents aware of the potential for possible criminal activity, specifically criminal trespass, and to help prevent any such activity (or any tenant from inadvertently facilitating such activity) from taking place at their place of residence. Additionally, Ms. Dunham and Stanford Management had an obligation to respond to the tenant's questions about the new policy.

Ms. Garey argues that Ms. Dunham's statement in the Email was false, and therefore the statement cannot be conditionally privileged. In addition to the fact that just because a statement made is false, the conditional privilege is not automatically void, this argument is not supported by the record. The Trespass Notice, the Letter and the Email did not make any provably false statement about Ms. Garey. The Letter did not even identify her by name. (A. 10.) Ms. Garey also alleges that she has shown "sufficient intent on the part of Stanford and Dunham to overcome privilege". (Garey Br. p. 13.) However, as the Superior Court found, Ms. Garey offers no support for this claim.

Ms. Garey's argument that the defamation claim should survive for now because Stanford Management and Ms. Dunham have not yet carried their burden of proving an affirmative defense similarly misses the mark. The Superior Court

correctly determined that the allegations in Ms. Garey's Complaint are such that they give rise to a conditional privilege as a matter of law. The burden of proof never shifts to the defendants where the plaintiff's own allegations foreclose any possibility of an actionable claim.

E. Fault

The Court correctly held that Ms. Garey has not alleged facts sufficient to show negligence, and has simply stated Appellees acted negligently. (A. 21, ¶ 28) ("Defendants acted at least negligently in publishing the false and defamatory statements.")

F. Defamation per se and special harm

The Court correctly decided that Ms. Garey has not shown actual malice on the part of Appellees, as the statements alleged are not capable of being proven false for the reasons discussed above. (A. 11.)

II. FALSE LIGHT INVASION OF PRIVACY (COUNT II)

To prove a claim of false light invasion of privacy, a plaintiff "must prove (1) falsity; (2) that the false light in which he was placed would be highly offensive to a reasonable person; and (3) that the defendants had knowledge of or acted in reckless disregard as to the truth or falsity of the publicized matter." Levesque v. Doocy, 557 F. Supp. 2d 157, 164 (D.Me. 2008), aff'd, 560 F.3d 82 (1st Cir. 2009)(citing Veilleux

v. National Broadcasting Co., 206 F.3d 92, 134 (1st Cir. 2000)). It is "only when there is such a major misrepresentation of [plaintiff's] character, history, activities or beliefs that serious offense may reasonably be expected to be taken by a reasonable man in his position, that there is a cause of action for invasion of privacy." Restatement (Second) of Torts § 652E (1997).

In her brief, Ms. Garey has no reply to the Superior Court's ruling dismissing her false light claim other than to argue, without citing any authority, that "it is not beyond doubt that Stanford and Dunham's actions would not be 'highly offensive to a reasonable person.'" (Garey Br. 14.) As stated by the Superior Court, on a motion to dismiss, the court makes a threshold determination regarding whether the statement is capable of placing the plaintiff in a false light. (A. 12) (citing Dempsey v. Nat'l Enquirer, Inc., 687 F. Supp 692, 693 (D. Me. 1988)).

As already stated by the Superior Court, the Plaintiff cannot prove the falsity of the Trespass Order or the E-mail, (A. 8), or that the Letter is actionable as a defamatory (and, by extension, false) statement. (A. 9.) The Superior Court also correctly held that Ms. Garey was unable to make a claim of false light invasion of privacy, as the Trespass Notice, the Letter, and the Email, as a matter of law cannot be viewed as highly offensive to a reasonable person as there is no major misrepresentation of Ms. Garey's character, history, activities or beliefs. (A. 12-13.) This Court has also held that more pointed comments to do not rise to the level of

highly offensive to a reasonable person. See Halco v. Davey, 2007 ME 48, ¶ 14, 919 A.2d 626, 630–31 (finding that statements concerning a settlement agreement reached with plaintiff branding the settlement amount as a "payoff" did not constitute a major misrepresentation of plaintiff's character). Finally, the Superior Court also correctly noted that the conditional privilege that applies to the defamation claim is also applicable to this claim. (A. 13.)

III. DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF (COUNTS V and VI)

The Superior Court acknowledged the well-settled principle that a declaratory judgment action "cannot be used to create a cause of action that does not otherwise exist" and "may only be brought to resolve a justiciable controversy." Sold, Inc. v. Town of Gorham, 2005 ME 24 ¶ 10, 868, A.2d 172, 176 (internal citations omitted).

Without citing any applicable case law or pertinent facts to support her allegation, Ms. Garey contends that she has a legal right to visit residents of the Muskie Building. Compl. ¶ 28. In fact, the opposite is true. It is Stanford Management, as the agent of a private landowner, that has the actual legal right to exclude others from its property. (See Order at 11); McBride v. City of Westbrook, No. 2:13-CV-272-DBH, 2014 WL 7891597, *3 (D.Me. Nov. 19, 2014) (holding that private landlords have authority over private property); Chiu v. City of Portland, 2002

ME 8, ¶ 11, 788 A.2d 183 (landlord is "deemed to have control over the common areas of rented premises). Further, Maine Courts have held that someone in Ms. Garey's position does not have standing to bring this type of claim. See, e.g. McBride at *3 (noting that, in addition to the landlord having authority over private property, the ex-tenant "has no other claims" with respect to alleged deprivation of right to associate at the property). On this basis alone Ms. Garey's claims seeking a declaratory judgement and injunctive relief were properly dismissed.

Moreover, to the extent that Ms. Garey disagrees with the issuance of the trespass order, a civil lawsuit in Superior Court against Stanford Management and Ms. Dunham is neither the forum in which nor the parties against whom her grievances should be pursued. As a practical matter, at this point in time there is no need for a declaratory judgement or injunctive relief given that the Trespass Order is no longer in effect.

Appellees have a legal right to exclude others from the property, and Ms. Garey has failed to articulate a legal right that grants her standing or requires judgment. Accordingly, the Court's order should be upheld.

CONCLUSION

For the above-stated reasons, the decision of the Superior Court should be upheld in its entirety.

DATED: February 8, 2024

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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the Brief of Appellees complies with the page and word limits set forth in Rule 7A(f)(1).

Dated: February 8, 2024 /s/ Jeffrey D. Russell

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of February 2024, I caused to be served on all counsel of record one electronic copy of the foregoing brief by e-mail and two printed copies by first-class mail, postage prepaid, addressed as follows:

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