STATE OF MAINE

MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Court Docket No. BCD-25-259

Montagu Reid Hankin, Bondie Hankin, Gun Club, Inc., Lee Family Corp., Kaiulani Sewall Lee, Albert Edge, Lisa Edge Schraeter, Walter E. Edge, II, the Edge Trust, and Anne Judith Kassenaar

Plaintiffs/Parties-in-Interest – Appellees – Cross-Appellants

v.

Sarah B. Sewall and Thomas P. Conroy

Defendants –Appellants

APPEAL
FROM THE BUSINESS AND CONSUMER DOCKET

BRIEF OF APPELLEES -- CROSS-APPELLANTS

Elizabeth A. Germani, Bar No. 7422
Jeffrey T. Piampiano, Bar No. 9309
Oliver Mac Walton, Bar No. 6340

DRUMMOND WOODSUM
84 Marginal Way, Suite 600
Portland, ME 04101
Tel: (207) 772-1941
egermani@dwmlaw.com
jpiampiano@dwmlaw.com
owalton@dwmlaw.com

Counsel for Appellees -- Cross-Appellants Montagu Reid Hankin, Bondie Hankin, Gun Club, Inc., Lee Family Corp., Kaiulani Sewall Lee, Albert Edge, Lisa Edge Schraeter, Walter E. Edge, II, the Edge Trust, and Anne Judith Kassenaar

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Other Authorities

INTRODUCTION

This appeal flows from an action that initially involved roughly two dozen parties with an interest in the use of the private Navy Road, which provides access to homes and lots on Small Point in Phippsburg, Maine. Appellants own only a tiny sliver of the road. Only Appellants and, to a lesser degree, Sarah Sewall's sister Rebecca Sewall and her husband Shawn MacDonald, opposed a broad decree confirming that all Navy Road landowners have the right to use Navy Road to access their property year-round. The trial court correctly held that Appellees have a prescriptive easement to use Navy Road year-round, for residential purposes. Only Appellants have appealed, challenging the trial court's conclusion as to the half-width of approximately 400 feet of the mile-plus-long road that they own.[1]

Appellants' description of Appellees' use of the Navy Road as "comings and goings" (*Blue Br.* 33) is an understated mischaracterization of Appellees' decades-long, continuous, adverse and undisputed use of Navy Road, from at least the 1950s to 2021, before anyone ever suggested to Appellees that their usage was

---

[1] As to all other parties, the trial court's judgment confirming Appellees' rights to use Navy Road, including the half-width owned by Sewall/MacDonald (whose source of title is the same as Appellants'), to access their properties year-round for residential purposes, is final with any appeal waived.

Appellees have cross-appealed from the trial court's rejection of their alternative easement theories, but do not seek a change in the judgment. If this Court affirms that Appellees have a prescriptive easement as set forth in the trial court's judgment, it need not address Appellees' cross-appeal.

solely at the whim of Appellants. Appellants and their predecessors in title stood by silently for decades watching Appellees subdivide land and then buy, sell and construct houses on, the subdivided lots accessible only by Navy Road. Appellants are now estopped from claiming that Appellees have no rights to use the road, as they have continuously used it for more than 70 years.

The trial court correctly recognized prescriptive rights in Appellees' favor. The trial court should have additionally recognized that easement by estoppel principles require the same result as a matter of law. And this Court should reject Appellants' law-expanding approach because it would be bad law for Maine.

STATEMENT OF FACTS

The parties all own parcels of land that are solely accessed by the Navy Road. As the videos show, Navy Road is a quiet gravel road akin to countless other Maine roads that access long-established communities. *1/27/25 Tr. 71*[2]; *Trial Ex. 151, 152*. Nonetheless, it is vital to Appellees.

The pattern of land ownership at Small Point has been for landowners to bequeath their property to their descendants, who then subdivide the land for the next generation to build homes there. *1/27/25 Tr. 239-240; 1/28/25 Tr. 195-196*.

[2] It should be noted that the trial transcript is fraught with misspellings and misstatements of the speaker's name, including erroneously attributing various statements and questions to the trial court and each of the attorneys. Just one of the many errors is that "Sewall" is repeatedly spelled "Soule."

That is how all the parties, other than the Hankins, came to own their parcels.

The evidence at trial included records from 1832 and court records from the 1882 case of *Lowell v. Mareen*, No. 89 (Sag. Cty. May 5, 1883) (Virgin, J.), referencing the road,[3] which was the access to the Old Salt Works at Lobster Cove, the pond for ice and food, and old houses on the Point; indeed, a jury was transported to Small Point in 1882 to view the road. *1/27/25 Tr. 198-199; Trial Ex. 20; 1/29/25 Tr. 91-96, 183-184, 187-188, 190-192, 194-195; Trial Ex. 4, 8*. That road was also access to the Sportsmen's Club n/k/a the Gun Club since at least 1873. *1/29/25 Tr. 193-194; Trial Ex. 138d*.

Similarly, a 1936 survey of the Williams lot shows an Old Woods Road which lines up with current-day Navy Road in the vicinity of Appellants' property, and can be seen in 1943 aerial photos. *1/29/25 Tr. 108-109, 167-168; Trial Ex. 108, 174, 175*. The roads reflected in these old documents, near Appellant's property, are in the same location as the modern day Navy Road. *1/29/25 Tr. 158*. Sarah Sewall was advised of this in 1997 by Peter Chandler, the personal representative of her grandmother's estate, who reported that his surveyor "is

[3] Using georeferencing, surveyor Bruce Martinson found that the Old Salt Works Road was "very close" to the current Navy Road. *1/29/25 Tr. 84-86, 91-96, 100-101; Trial Ex. 141* (5 survey plans accepted as a summary of Martinson's work). The Navy's "as built" plan strengthened Martinson's opinion that the Old Salt Works Road is the same as the current Navy Road. *1/29/25 Tr. 102-104; Trial Ex. 200, 172*.

satisfied that the Navy Road was built in the same location as the Old Woods Road." *1/31/25 Tr. 23, 24*.[4]

Moreover, the land's topography was conducive to putting the old road along the Pond -- the area of Navy Road now in dispute, only where the current Navy Road lies. *1/29/25 Tr. 110-112, 143*. This is consistent with the undisputed testimony of the witnesses who recall walking the old roads from Seal Cove Road to beyond the pond -- the Appellants' stretch of Navy Road. *1/29/25 Tr. 112*.

The Navy Road was also roughly depicted on the Morton & Quimby ("M&Q") Plan for the residential development of Small Point in 1896. *1/27/25 Tr. 208-209, 211; 1/28/25 Tr. 65-66; Trial Ex. 16; 1/29/25 Tr. 87-91; Trial Ex. 141* shows an overlay of the Navy Road shown on the M&Q Plan.[5] Importantly, deeds conveying the land at issue executed by Appellants' predecessors in interest describe and convey multiple "rights of way or easements . . . as now travelled and/or laid out and shown on [the M&Q Plan] . . . for the purpose of travel by foot,

---

[4] Sarah denied seeing it, but admitted talking with Chandler about it later, and that she knew he was trying to get a right of way over Navy Road, which he did eventually get from Sallie Comey, *Id.* at 25-26.

[5] Historical records make clear that at least some of the roads shown on the M&Q Plan were already built, including the road that ran from Seal Cove Road past the pond where Appellants' land is -- now known as the Navy Road. *1/29/25 Tr. 208-209*. The M&Q Plan has been used by Small Pointers for establishing walking easements, covenants and roads; some lot lines and roadbeds were established from it; and it has been used as a reference in deeds, as the Trial Court acknowledged. *1/27/25 Tr. 209-211, 213*. Deeds from 1898 and the early 1900s also reference carting and ice hauling easements or roads in the same location as the current Navy Road -- to travel over what is now Appellants' property. *1/29/25 Tr. 210-219; Trial Ex. 19, 24, 27, 31, 108*.

motor vehicle or other means of transportation . . . ." *Trial Ex. 38, 39; 1/29/25 Tr. 238-243; 1/30/25 Tr. 43-44*.[6]

There were WWII military barracks and a lookout on Lot 6, currently owned by GCI and LFC; Sallie Comey recalls this, photos from 1943 show them, and the foundations are still there. *1/27/25 Tr. 200-202; 1/28/25 Tr. 25; Trial Ex. 137*, (as described by R. Lee (*1/27/25 Tr. 203-206*) and Martinson (*1/29/25 Tr. 134-135, 145, 153, 166-167*)); Comey Dep., *Trial Ex. 170, pp. 14, 28*.

Comey recalls walking Navy Road before 1944, and that people lived at the end of Navy Road. *Trial Ex. 170, pp. 18-19, 26-27*. Reid Hankin recalls walking Navy Road in the 1950s, from Seal Cove Road past the present location of Appellants' property to the Pond, and then to the Point. *1/27/25 Tr.120-125*. The road was "exactly the same" route that the Navy improved; it was "fairly wide" and "identical to current Navy Road." *1/27/25 Tr. 126, 147*. Camilla "Kimmy" (Lee) Alexander has similar memories as well as memories of vehicles using Navy Road before 1960 (*1/29/25 Tr. 55-59, 65*), as does Kaiulani Lee, who recalls Navy

[6] Physical evidence of very old usage of Navy Road across Appellant's property for hauling heavy construction materials, includes the remains of a 1911 pump house (*1/27/25 Tr. 129-130, 131, 185-187; 1/28/25 Tr. 86, 89; Trial Ex. 147-148*); an old foundation (*1/27/25 Tr. 186, 188, 189; 1/28/25 Tr. 88*); and a well (*1/27/25 Tr. 189; 1/28/25 Tr. 88*).

trucks improving the road she had previously walked from Seal Cove Road past the Pond (*1/28/25 Tr. 82-85, 93, 139*).

In 1960, the landowners provided the Navy a non-exclusive easement to use Navy Road to access Small Point. *1/27/25 Tr. 167-168, 173; 1/28/25 Tr. 94; Trial Ex. 118*. This was effectively a joint enterprise by all the landowners, who would benefit from an improved road to access the western sides of their properties.

After 1960, Appellees' predecessors in title and other landowners on Navy Road (1) subdivided their land into parcels solely accessible by Navy Road; (2) conveyed those parcels; (3) built houses on those parcels; and (4) used Navy Road for construction vehicles and equipment, and all traffic associated with clearing land, installing utilities, building houses, and year-round residential use.

From the 1940s until her death in 1972, Camilla Sewall Edge ("CSE") owned a large swath of southernmost land on Small Point, including Lots 5, 6, 7, 8, 9-2, 9-3 and 11, all now owned by Appellees and accessed by Navy Road. *1/27/25 Tr. 167, 168; 1/28/25 Tr. 80, 81, 266-267; A. 163*.[7] After CSE's death in 1972, that land was divided among her children, who then passed it to CSE's grandchildren -- Appellees other than the Hankins. *1/27/25 Tr. 221; Trial Ex. 48*.

---

[7] The chain of title for each of the parcels at issue is at *A. 165-282*. All references to Lot numbers refer to Tax Maps 22 and 23, A. 163 and 164 (which were *Trial Ex. 2* and *3*, respectively).

CSE is the grandmother of the MacFadyens, who own Gun Club, Inc. ("GCI"), which owns Lots 5 and 11, and a half interest in Lot 6. *1/28/25 Tr. 157*. Lot 6 is burdened by a conservation easement by GCI and Lee Family Corporation ("LFC"), prohibiting development. *1/28/25 Tr.157-158, 196-197*. Lot 11 has many acres, and is crossed by Navy Road, its only access. *1/28/25 Tr. 158-159*. CSE is the grandmother of the Lees, who own LFC, which owns a half interest in Lot 6. *1/27/25 Tr. 165, 166, 220-221*. Kaiulani Lee owns Lot 9-3. *1/28/25 Tr. 79, 80*. CSE is the grandmother of Walter, Albert and Lisa Edge, who own Lot 8. *1/28/25 Tr. 242; 266-267; 1/29/25 Tr. 26-27*. Albert and his wife A.J. Kassenaar own Lot 9-3. *1/29/25 Tr. 27, 35*.

Appellants own Lot 23-1, on Navy Road north of Appellees' respective parcels, inherited from Sarah's father in 1995. *Trial Ex. 74*. Appellants' land is only half the width of Navy Road for a few hundred feet of the road, which is more than a mile long. *1/31/25 Tr. 39-40; 1/30/25 Tr. 184, 185; 1/28/25 Tr. 202*.

In 1965, CSE built "the Upper House" on Lot 5, with a driveway to Navy Road. *1/27/25 Tr. 166, 169, 170, 188; 1/28/25 Tr. 73, 166*. Construction vehicles used Navy Road, the house's sole vehicular access. *1/27/25 Tr.168-169; 1/28/25 Tr. 158*. After 1972, the MacFadyens stayed regularly at the Upper House year-round; their renovations went on "forever," mostly off-season, with vehicles and

construction equipment all using Navy Road. *1/28/25 Tr. 9, 166-171*. Subsequent renovations also utilized Navy Road. *1/28/25 Tr. 10, 175-176*. Permission to use Navy Road was never requested by or given to the MacFadyens. *1/28/25 Tr. 184-185*.

The Lees also succeeded to CSE's rights (later transferred to Appellee LFC) when they inherited the lots now owned by LFC, Kaiulani Lee, and Edge/Kassenaar. *1/27/25 Tr. 220-221; Trial Ex. 48, 65*, *66*. One parcel of that land (Parcel III in *Trial Ex. 66*) was subdivided in 1991 with a survey by P. Mount (*1/27/25 Tr. 257*; *Trial Ex. 67*); two of those subdivided lots are at issue: Lots 9-2, now owned by Kaiulani Lee (*1/28/25 Tr. 79; Trial Ex. 72*), and 9-3, now owned by Edge/Kassenaar (*1/28/25 Tr. 104; 1/29/25 Tr. 27, 35; Trial Ex. 92*). Both lots are crossed and solely accessed by Navy Road. *1/28/25 Tr. 107-108*. The subdivision markings were "quite obvious" to all; one "couldn't miss" them. *1/27/25 Tr. 259; 1/28/25 Tr. 106-107*. The entire Phippsburg Planning Board drove Navy Road to the subdivision before approving it. *1/27/25 Tr. 261-262*. Richard Lee sent notice of the proposed subdivision to all abutting landowners, including the then owner of Appellants' property. *1/27/25 Tr. 262*.

The Lees and LFC used Navy Road year-round without asking or obtaining permission from anyone. *1/27/25 Tr. 173, 174, 175, 177, 183, 223, 254-255, 256;*

1/28/25 Tr. 95, 117-118. Richard and Kaiulani Lee learned to drive on Navy Road, as did Lisa Edge. *1/27/25 Tr. 175; 1/28/25 Tr. 99, 267-268*. Richard was at Small Point every other weekend year-round, and took classmates with him, driving Navy Road to get there. *1/27/25 Tr. 176-177, 225*. Richard drove Navy Road for camping, caretaking the Upper House, duck hunting, target shooting, fishing, "musseling," harvesting wood, foraging, skiing, skating and boating. *1/27/25 Tr. 180, 181, 182, 223, 226, 228, 229-230, 231, 235, 271; 1/28/25 Tr. 4, 41-42*. Kaiulani Lee's family similarly used Navy Road (*1/28/25 Tr. 100-101; 109-110, 112-115, 120-124*), as did Tevere MacFadyen (*1/28/25 Tr. 200-201*).

Richard also arranged for plowing Navy Road, as did Tevere; and Richard plowed it himself. (*1/28/25 Tr. 43, 45, 189*.) GCI has contributed to the maintenance of Navy Road. *1/28/25 Tr. 191*. In communications with Appellants about dividing the costs of maintenance among those who owned property along Navy Road, Appellants (and Rebecca Sewall) never suggested that Appellees did not have rights to use the road. *1/28/25 Tr. 193, 264-265; 1/31/25 Tr. 41, 42, 43, 72, 105; Trial Ex. 154*.

Over the years, the Lees gave permission to others to use Navy Road for accessing the Point.[8] *1/27/25 Tr. 177, 178, 179, 245-247, 272-3; 1/28/25 Tr. 99*.

[8] Those given permission include MIT, the Boy Scouts, the Small Point summer school, conservation

No permission was ever given for Appellees' use of Navy Road, and none should be assumed by the Court. Indeed, contrary to Appellants' assertions, CSE and Camilla Lee (Richard Lee's mother) were nothing more than "cordial" with Appellants' predecessors in interest, Jane and Loyal Sewall, Loyal Sewall, Jr. and Camilla Wood; Mrs. Lee lacked trust in the Sewalls and Wood. (*1/27/25 Tr. 184, 250-254*.) Richard described Jane Sewall as "frightening," so he stayed clear of her. Tevere MacFadyen did not even know the Appellants or their immediate family, and testified that the two families were not close. *1/28/25 Tr. 186, 204*. Tevere described Jane Sewall as "an imposing presence" to whom he was "trotted out … for tea once a summer, and presented, and then taken away." *Id.* Rather than close, Tevere "was terrified" of Jane Sewall. *1/28/25 Tr. 187*. Though Tevere's mother was "fond of Camilla Wood," there was no close relationship between Tevere's ancestors and Appellants' ancestors that led to any permission being given. *1/28/25 Tr. 187-188*. Appellants did not know the Edges and repeatedly filed pleadings erroneously referring to their father as Walter (his name was Loyall Edge). *1/28/25 Tr. 247-248; 1/29/25 Tr. 26*. Lisa Edge did not know Appellants or the Sewall family members (*1/28/25 Tr. 273-275)*, nor did Albert Edge. *1/29/25*

---

organizations, land trusts, state and federal agencies, and fishermen.

Tr. 25-26, 40-41. Sarah Sewall admitted that the Edges' father "had not been a big part of the community," she only knew who the Edges were, she would not even recognize Albert's wife A.J. Kassenaar, and did not know Wally Edge until she saw him driving on Navy Road recently; Sarah's husband admitted that they were not close to the Edges. (*1/31/25 Tr. 15, 60, 81*.)

Starting in 1972, and continuing for 11 years, the Edges (who also took title from CSE) also built a year-round house with sole access via Navy Road, a drilled well and septic system. *1/28/25 Tr. 11, 12, 62, 248, 254, 256; 1/29/25 Tr. 5-6, 30-31; Trial Ex. 48*. The work was loud and obvious, and year-round. *1/27/25 Tr. 57-58; 1/28/25 Tr. 14-15, 251, 256; 1/29/25 Tr. 33*. The wood from clearing the land was hauled off site by big 18-wheel logging trucks and dump trucks, via Navy Road. *1/28/25 Tr. 13-14*. The Edges held a barn raising -- a "big event," where big beams on "huge trucks" were transported down Navy Road, and lots of people drove Navy Road to help. *1/28/25 Tr. 17, 178, 253, 255; 1/29/25 Tr. 33*. Even before the house was completed, the Edges began staying regularly in the house on Navy Road, year-round. *1/28/25 Tr. 251, 257-259, 271-272; 1/29/25 Tr. 6, 18-21, 24, 29, 34-35, 46-47*. The Edges have also renovated their house multiple times. *1/28/25 Tr. 279-280; 1/29/25 Tr. 5*. Their vendors and contractors also regularly access the house via Navy Road. *1/28/25 Tr. 259-261*.

Albert Edge has been using Navy Road year-round to access Lot 9-3 which he owns with A.J. Kassenaar, since they purchased it, and, before then, for many years when CSE owned that land as part of her vast land holdings on Small Point. *1/29/25 Tr. 36-38, 51*. He and his family never asked for or received permission to use Navy Road at any time during the 50+ years he has been using it, and until 2018, no one ever suggested that there could be an access issue. *1/29/25 Tr. 38-39*. In fact, his deed contains an easement to use Navy Road. *1/29/25 Tr. 39; Trial Ex. 64*. Albert knew he had the right to use Navy Road to access both of the properties he owns on Small Point. *1/29/25 Tr. 39-40*.

Despite the continuous use of Navy Road by the Lee, MacFadyen and Edge families all their lives, to access their family land, no one ever suggested that they did not have a right to use the road or that their usage was subject to some permission allegedly given them, until Appellants contended that in 2021 -- a full 26 years after Appellants obtained title ownership in their land. *1/27/25 Tr. 267-9; 1/28/25 Tr. 102-103, 125, 193, 266*. That contention was met with dismay and disbelief that anyone could deprive Appellees of the right to use the road as they had been for more than 50 years. *1/28/25 Tr. 194, 195, 266*.

The Hankins are not related to CSE *(1/27/25 Tr. 31, 120)*, but in 1954, CSE conveyed Lot 7 to Reid Hankin's grandmother, Marcia Gallup. *Trial Ex. 44;*

1/27/25 Tr. 63. All of the deeds in the Hankins' chain of title contain the following language: "together with the rights of way or easements which are appurtenant and shown on property herein described, as now traveled and/or laid out and shown on [the M&Q] plan . . . leading from the Town Road to properties of Dearborn, Edge, Sewall, Trott, Williams and the Gun Club for the purpose of travel by foot, motor vehicle or other means of transportation." *1/27/25 Tr. 23-24; Trial Ex. 57, 58, 60, 62*. Bondie Hankin has been going to that land since 1970 and Reid Hankin has been going since the 1950s. *1/27/25 Tr. 18, 32, 119*. Their sole access is via Navy Road.[9] *Id.*; *1/27/25 Tr. 136; Trial Ex. 61*. In 1974, the Hankins cleared the land and constructed a winterized house, which is now the Hankins' only residence, where they live with their special needs daughter. *1/27/25 Tr. 17, 20, 27, 54, 65*.

The clearing and construction was very loud, prolonged, year-round, and done by multiple contractors who accessed the Hankin lot with dump trucks, cranes, well driller, roof truss carriers, and all other vehicles and equipment, solely by Navy Road. *1/27/25 Tr. 32-40*. After the house was built, the Hankins built a boat house on their land in the early 1980s; that also required loud and prolonged, year-round work by contractors who solely utilized Navy Road for their trucks and

[9] Initially, the fee interest in the land forming the Hankins' driveway to Navy Road was owned by CSE and used by the Hankins per an "informal easement;" after 45 years of usage, GCI gifted that land to the Hankins, but there was no change in the Hankins' usage of the driveway. *1/28/25 Tr. 183-184*.

equipment. *1/27/25 Tr. 40-42; 1/28/25 Tr. 22*. In the intervening decades, the Hankins also continued to use and improve their property year-round, with all access by them, their guests and contractors via Navy Road. *1/27/25 Tr. 42-43, 44, 54-57, 133-135, 136*. There is no doubt that anyone in the area would have known that the Hankins were clearing land, doing construction, maintaining the house, and using Navy Road to access their land for more than 50 years. *1/27/25 Tr. 53-54; 1/28/25 Tr. 178-179*.

The Hankins have always understood that they had a deeded easement to use the Navy Road for all purposes. *1/27/25 Tr. 24, 25, 139*. No one ever suggested otherwise until 2021 when Appellants attempted to block their access, despite all the construction and traffic related to the Hankins' use of their property for well more than 50 years. *1/27/25 Tr. 25, 41-42, 60-61, 136-137*.

The Hankins never sought or received permission from anyone to use Navy Road. *1/27/25 Tr. 46-47, 137, 141-142*. On the contrary, Rebecca Sewall testified that her father, Loyall Sewall, Jr., was well aware of the Hankins' construction, and said it was risky because of their alleged lack of access to Navy Road, but he did nothing to stop the construction. *1/31/25 Tr. 102, 114-115*. Nor did his daughter Rebecca -- or anyone else -- in the intervening years before Appellants

tried to cut off access in 2021.[10] *1/31/35 Tr. 114-115*. The Hankins did not know the Appellants or the Sewalls. *1/27/25 Tr. 47, 49, 51, 52, 137, 144-145*. Indeed, Bondie Hankin never met Rebecca Sewall (*1/31/25 Tr. 97*), did not meet Sarah Sewall until 2021, and Sarah and her husband Thomas Conroy were certainly not "friendly neighbors" as Appellants insist. *1/27/25 Tr. 47-49, 59-60, 66-68*. Reid Hankin never met Sarah or Rebecca Sewall until 2019. *1/27/25 Tr. 138; 1/31/25 Tr. 8, 97*. Appellants both admitted that they were not close to the Hankins. *1/31/25 Tr. 47, 81*. Nor was there any close connection between the Hankin predecessors in title and the Sewalls. *1/27/25 Tr. 52-53*.

In the 1990s another dwelling -- the Crow's Nest -- accessed only by Navy Road, was built on the land owned by GCI, shown on Lot 5. *1/28/25 Tr. 19, 20, 158, 180-181*. The Crow's Nest was used consistently during all seasons for more than 20 years, and continues to be used. *1/28/25 Tr. 22, 181, 216*.

---

[10] The gate that Appellants erected to block Navy Road and Appellees' access to their own properties was a "nightmare," "very, very . . . difficult," "annoying and a real hassle," and it blocked access by emergency responders and to the services that the Hankins' special needs daughter requires. *1/27/25 Tr. 60-62, 65-66, 142-144; 1/28/25 Tr. 202, 269-270*. Appellants located the gate at the south end of their property solely to block traffic to Appellees' property, not to protect Appellants' property which remained accessible even when the gate was closed. *1/27/25 Tr. 63, 64; 1/28/25 Tr. 6, 8*. Appellants insisted that it be locked with a key at all times, requiring the Hankins -- older folks living with a multi-handicapped daughter -- to get out of their vehicle and walk to and from the gate every time they, a contractor, vendor, delivery person, or guest tried to enter or exit the Hankin house. *1/31/25 Tr. 46-49*.

It was common knowledge among Small Point landowners that the Upper House, the Hankins' house, the Edges' house and the Crow's Nest were all being built and later renovated. *1/28/25 Tr. 23*. And the Lees notified everyone in the area of their subdivision, including the P.R. of the Jane Sewall Estate. *1/27/25 Tr. 262*. Indeed, Sarah Sewall testified that Jane Sewall had binoculars and "everybody knew everybody's business." *1/30/25 Tr. 214*.

The Hankins, Edges, MacFadyens and Lees all drive Navy Road to access their properties. *1/27/25 Tr. 58-59*. They have undertaken maintenance of the Navy Road. *1/27/25 Tr. 115-116, 263-4* (the Hankins); *1/27/25 Tr. 59, 109-510, 227-8, 232-4, 263, 274-5; 1/28/25 Tr. 50-51* (R. Lee); *1/27/25 Tr. 263-4; 1/28/25 Tr. 261, 277-278* (the Edges). Richard Lee also used heavy equipment to remove via the Navy Road the Navy's rake station, power lines and poles. *1/27/25 Tr. 272-3; 1/28/25 Tr. 97*. Lisa Edge coordinated road maintenance among the landowners on Navy Road, and Appellants never suggested that she didn't have the right to use the road. *1/28/25 Tr. 264-266*. On the contrary, Appellants asked the Edges to pay more than Appellants for that work (*id*.), including contributing for the grading work to Appellants' house that Appellants contracted (*1/31/25 Tr. 72*).

Appellees have also hosted events -- including funerals, weddings, bridal events, and birthday parties -- on Small Point, and all guests used Navy Road to attend. *1/27/25 Tr. 267; 1/28/25 Tr. 119-121, 123, 203-204, 276; 1/29/25 Tr. 61*.

In 1995, Sarah Sewall's father died, leaving a will that left his land on Small Point to her and her siblings. *Trial Ex. 74*. Importantly, Appellants' deeds conveyed the land subject to the rights of others to use Navy Road. *Trial Ex. 76, 77, 78, 79, 81, 82, 83; 1/29/25 Tr. 246-250, 252-253*. Thus, Appellants always knew that their ownership of a small fraction of the length and one-half the width of Navy Road was to be used in common with others -- *i.e.,* Appellees. In fact, Sarah Sewall knew that Appellees were using the Navy Road to access their homes before she got her individual deed from her father's estate in 2007. *1/31/25 Tr. 30*.

Thus, the overwhelming, undisputed trial evidence was that Navy Road has existed since the 1800s, was improved by the Navy in 1960, and has been used by Appellees since at least the 1950s in open, notorious, and extremely adverse ways. Further, there were no close familial or neighborly connections which render such adverse use presumably permissive. The evidence makes clear that prescriptive easement rights had already vested in Appellees long before 1995 when Appellants first obtained a fee interest in Navy Road. Even if that were not the case, Appellants sat back for another 26 years before ever suggesting that the use was

permissive and subject to their whim. At this late date, Appellants are legally estopped from asserting such arguments.

STATEMENT OF THE ISSUES FOR REVIEW

Should the trial court's judgment finding easements in favor of Appellees to use Navy Road be upheld where the undisputed evidence was: (1) that Appellees all own land solely accessed, and bounded or crossed, by Navy Road south of Appellants' parcel; (2) that for more than 50 years Appellees and their predecessors in title have been very openly, continuously and adversely using Navy Road for year-round vehicular and pedestrian access to their properties for all purposes -- including the transport of large, heavy construction trucks and equipment; (3) that Appellees and their predecessors in title relied on their ability to use Navy Road in subdividing land, conveying land and constructing homes; and (4) that for 26 years, Appellants -- and for decades longer than that, their predecessors in title -- stood silently by while Appellees used the Navy Road as they chose, subdivided land with Town approval to create lots with access only via Navy Road, conveyed those parcels, built and maintained homes, and used Navy Road however they chose, including giving permission to others to use the road?

SUMMARY OF THE ARGUMENT

This Court should affirm the trial court's decision which allows Appellees to use Navy Road to access their land as they and their predecessors in title have been doing for decades, and as any reasonable person would anticipate the road to be used in a residential neighborhood with subdivided lots. The undisputed evidence is that all Appellees own land that is bounded or crossed by Navy Road, which is the sole means of accessing all the parcels at issue. Appellees and their predecessors in title have subdivided land, conveyed land, and built and renovated houses on their land in reliance on Navy Road access. Appellants own only half the width of Navy Road, for a small fraction of its total length. Yet, they ask the Court to cut off access to Appellees' land through a ruling that would prohibit Appellees from using Appellants' small slice of half the road. Of the many landowners on Navy Road, Appellants are the only ones who seek this relief. Thus, Appellees have the established right to cross the entire length of Navy Road to their respective parcels, leaving in dispute only usage of Appellants' small piece of one-half the road's width. Having sat by and watched decades of use by Appellees, their predecessors in title, guests, invitees, contractors, vendors, heavy equipment transports and surveyors use Navy Road to divide, convey, build upon, maintain,

access, and freely use their properties, Appellants cannot now cut off those long-established rights. The trial court's judgment should be affirmed.

ARGUMENT

I. The Trial Court Correctly Ruled that Appellees Have Established Prescriptive Rights to Use Navy Road.

A. The trial court faithfully and correctly applied this Court's precedents regarding the presumption of adversity.

The trial court considered an overwhelming amount of undisputed evidence regarding the long-standing usage of Navy Road by each of the Appellees, their family members, guests, and contractors. Appellees described in detail how they have been using the Navy Road since they were small children -- first, to access the land when it was owned by CSE as a single parcel, then when it was owned by CSE's heirs and successors in interest, and ultimately, to access their own individual parcels. This usage was not simple "comings and goings" by foot. Rather, the usage involved years of creating subdivided parcels accessible only via Navy Road, construction of year-round homes, and all of the traffic involved with those endeavors, as well as the common usage to which such property is put. This usage was certainly open and notorious. Yet, through decades of such usage, there was never an indication from Appellants or their predecessors that Appellees did

not have rights to use Navy Road, or that the usage by Appellees was solely by permission and subject to the whim of Appellants, as they now claim.

To establish a prescriptive easement, a claimant must prove "(1) continuous use for at least twenty years; (2) under a claim of right adverse to the owner; (3) with the owner's knowledge and acquiescence, or with a use so open, notorious, visible, and uninterrupted that knowledge and acquiescence will be presumed." *Androkites v. White*, 2010 ME 133, ¶ 14, 10 A.3d 677. As a general matter, "when the first and third elements of a private prescriptive easement are established, . . . a presumption arises that the use of the property was under a claim of right adverse to the owner." *Id.* ¶ 17. "[T]he ordinary rule is that, where there has been an unmolested, open, and continuous use of a way for twenty years or more, with the knowledge and acquiescence of the owner of the servient estate, the use will be presumed to have been adverse and under a claim of right, and sufficient to create a title by prescription, unless contradicted or explained." *Burnham v. Burnham*, 130 Me. 409, 411, 156 A. 823 (1931) (alteration omitted). Although the presumption of adversity arising from a claimant's twenty years' continuous and acquiesced-in use may not apply if there is an explanation of the use that contradicts the rationale of the presumption, *Androkites*, 2010 ME 133, ¶ 17, 10 A.3d 677, the trial court correctly found that there is no such explanation here.

There is simply no basis for contradicting the trial court's express factual finding that subdivisions by multiple families, over the generations, to create parcels with sole access to Navy Road, was permitted. Similarly, permission cannot be presumed where multiple landowners are crossing the land with large construction equipment and trucks to build homes on those subdivided parcels.

Although Appellants spent the bulk of their Brief arguing that they are either "close" family or "friendly neighbors," nothing could be further from the truth, as the trial court properly found. The Hankins had no family connection at all, and never even knew the Appellants or their predecessors in title. And although the remaining Appellees shared a common great grandfather with one of the Appellants, they did not know the Appellants and certainly were not close enough to them for this Court to presume that Appellants somehow gave their permission for decades of such heavy vehicular usage. Indeed, the overwhelming evidence, outlined above, was that Appellants have been anything but "friendly." Appellants' efforts to convince the Court otherwise is an attempt to rewrite history.

B. Even if There Were No Presumption of Adversity, The Overwhelming Weight of the Evidence Clearly Established Adversity.

Moreover, even if this Court were to somehow find that the evidence compelled a finding that the burden shifted to Appellees to prove adversity, there was more than enough evidence to support such findings by the trial court.

Allowing a person to cross one's land on foot to access a beach is the typical situation where permission has been presumed. It is another thing entirely -- and adversity should be presumed – where one stands by while multiple large families (a) drive up and down the road with their relatives and guests, (b) subdivide their land to create parcels accessed only by the road, (c) buy and sell parcels of land with access only via the road, (d) give others permission to use the road, (e) contract with contractors and heavy equipment suppliers to utilize the road, (f) install utilities to access their properties, (g) build homes on their parcels solely accessible by the road, (h) undertake efforts to maintain the road, (i) make payments to Appellants and others to maintain the road, and (j) otherwise use the road in all ways that only owners can do.

C. Appellants have waived their argument that the family exception does not permit inquiry into the actual relationship between landowners.

Instead of attacking the trial court's finding that the landowners' relationships were not particularly close,[11] Appellants now assert that the trial court did not faithfully apply *Androkites* because it considered not just the degree of consanguinity between the landowners during the prescriptive periods, but the

[11] In a footnote, Appellants make a half-hearted attempt to dispute this finding. (*Blue Br.* 23 n.9.) As explained below, their cherry-picked examples of familial connections between the relevant landowners fail to demonstrate clear error by the trial court.

actual nature of those relationships, in determining whether to apply the presumption of adversity. (*Blue Br.* 21-23.) This is a sharp diversion from the approach they took at trial, where counsel advised the trial court: "So in no way, Your Honor, are we arguing any time there's any distant family relationship between two parties that the presumption goes away." (*1/31/25 Tr. 173:6-8; 1/31/25 Tr. 172:5-7*.) Instead, Appellants' focus at trial was on what they called the "unique facts and circumstances" of "the Small Point community" and the landowners' familial connections. (*1/31/25 Tr. 173:9-14*.) The trial court found the facts to the contrary. Having lost on the rules that they urged the trial court to apply, Appellants now ask this Court to change the rules. The argument was waived, and should not be considered on appeal. *See, e.g.*, *Armstrong v. State*, 2025 ME 12, ¶ 13, 334 A.3d 619 ("A party must ordinarily present an issue to the original tribunal to preserve that issue for appellate review.").

D. The trial court did not err by considering the actual facts and evidence relating to the landowners' personal relationships.

Even if Appellants had preserved this argument, the Court should reject it. The trial court did not err by considering the actual closeness of the landowners' relationships in determining whether to apply the presumption of adversity. As this Court explained as early as 1931, "[t]he relationship of the parties is evidence which the [factfinder] has a right to consider in determining the character of the

use, but it is not conclusive. The ultimate decision rests with the [factfinder]." *Burnham*, 156 A. at 824. Indeed, even in *Androkites*, this Court explained that the presumption of adversity did not apply because, "[u]nder the facts" present there, the claimant's "historical use of the [claimed recreational easement] . . . was explained by the family relationship." 2010 ME 133, ¶ 19, 10 A.3d 677.

Every family is different, and no court has ever stated that the closeness of a relationship, even a familial relationship, is irrelevant to determining whether the presumption of adversity should apply. Similarly, no court has ever adopted, nor even hinted at considering, Appellants' wooden, mechanistic, and unsupported assertion that the line should be drawn only "where a family tree has spread so far that its members no longer realize they are family." (*Blue Br.* 23 n.9.) Instead, in determining whether adversity may be presumed, courts have regularly inquired as to the nature of the actual relationship between the landowners; the degree of consanguinity is simply one factor among many. *See, e.g.*, *O'Neal v. Love*, 593 S.W.3d 39, 43-44 (Ark. Ct. App. 2020) (the presumption of familial permission was inapplicable under the facts because there were "no sustaining familial or filial relations" between sisters-in-law who had little contact after husband's death, only "the funeral in 2004 and a hospital visit in 2013"[12]); *Totman v. Malloy*, 725 N.E.2d

[12] It is noteworthy that these two flimsy interactions were more than was had between the Appellants and

1045, 1047-49 (Mass. 2000) ("Historically, the existence of a familial relationship between claimants has been a factor in determining whether possession of land is adverse . . . . "[M]any of the cases from other States recognizing such a presumption involve cotenants or minor children living with their parents for part or all of the required time period."); *Brown v. Houston Ventures*, No. Civ. A. 2046-S, 2003 WL 136181, at *6 (Del. Ct. Ch. Jan. 3, 2003) ("[T]he closer the familial relationship, the more compelling that relationship will usually be."); *see also* Restatement (Third) of Property: Servitudes § 2.16 cmt. c ("Evidence that the claimed adverse user and owner or possessor of the claimed servient estate enjoyed a close relationship as kin or as neighbors may overcome the presumption that unexplained use is adverse."); 2 C.J.S. Adverse Possession § 120 (Westlaw May 2025 Update) ("By one standard, a familial relationship makes the possession of land of one by the other presumptively permissive or amicable, depending on the degree of consanguinity and family bonds, although, by another standard, a familial relationship does not give rise to an automatic presumption of permissive use." (Emphasis added.)). Indeed, the Minnesota Supreme Court ruled that even where the parties were sisters, that may not be enough to presume permission. *Beitz v. Buendiger*, 174 N.W. 440, 441 (Minn. 1919) ("The presumption of

---

the Appellees during the relevant years, as described above.

permissive occupation is much stronger as between parent and child than between estranged sisters."). Here, the "family" connection between Appellants and some of the Appellees is distant cousins, but the parties and their respective predecessors did not materially interact during all relevant prescriptive periods of time; and the Appellants were nothing more than unknown new neighbors to the Hankins when they first met in 2019 and 2021.

The very purpose of evidentiary presumptions and burden-shifting frameworks, like the "family" exception to the presumption of adversity, is to suss out the facts in the absence of direct evidence. Here, there was substantial evidence of both the actual relationship and the adverse nature of the uses of Navy Road by Appellees and their predecessors over decades, and it was more than sufficient to prove adversity, should adversity not be presumed. This Court should reject Appellant's belated plea that the court shut its eyes to that evidence.[13]

Moreover, Appellants' reductionist rule that there is a singular meaning of the word "family," by which every Mainer must abide, would have the patronizing

---

[13] The justification for burden-shifting that this Court relied on in *Androkites* -- that the family member will usually have better access to information about the landowners' relationship -- has no bearing here. 2010 ME 133, ¶ 19, 10 A.3d 677. Here, parties on both sides are members of the claimed extended family. There is no information disparity. Moreover, contrary to the Appellants' suggestion, the trial court did not place a burden on Appellants to "demonstrate that the familial relationship is a sufficiently close relationship." (*Blue Br.* 21.) Rather, the trial court took evidence and affirmatively found that the relationship between landowners here, even if it includes a distant relation, "does not provide an explanation that contradicts the presumption." (*A. 64*.) That is beyond cavil and should be affirmed.

effect of ignoring the infinitely variable nuances of family relationships and substitute a court's judgment of how particular family members "ought" to relate to one another. This Court should emphatically reject Appellants' invitation to adopt a wooden rule that disregards the details of actual relationships (or lack thereof), and instead to enter the business of prescribing, for instance, how every nephew should treat his uncle, or how close every pair of sisters should be -- which is not even to mention cousins and neighbors like the landowners here who did not associate with one another in any material way. *Cf. Totman*, 725 N.E.2d at 1048 (declining to define "what constitutes a 'close' family relationship").

As the trial court observed, the difference in use between this case and *Androkites* could not be more stark.[14] (*See* A. 64.) In *Androkites*, the claimed easement was a simple footpath along the waterfront to access a "beach" and "boat mooring area," which the claimants could reach via an alternative route. 2010 ME 133, ¶¶ 2, 4, 6, 10 A.3d 677. Here, in contrast, Navy Road is the only means of access to Appellees' properties, and has always been traveled by motor vehicle. This case involves access for residential use and development, which is sharply

[14] This Court has explained that in determining whether to apply a presumption of adversity, it is the use of the land that is critical. *See Lyons*, 2002 ME 137, ¶ 24, 804 A.2d 364 ("[I]t is the public recreational uses of land, not the nature of the land alone, that triggers application of the rebuttable presumption of permissive use in public prescriptive easement cases.").

different from foot travel to reach the shore. As a matter of both common sense and law, permission can be more readily presumed for recreational use of an easement than for necessary ingress and egress from the public way. *Cf. Lyons v. Baptist Sch. of Christian Training*, 2002 ME 137, ¶ 24, 804 A.2d 364. Thus, *Androkites* does not warrant a reversal.

i. The evidence overwhelmingly supports the trial court's finding that the relationships were not close enough to explain the acquiescence or abandon the presumption of adversity.

The trial court did not err in finding that the relationships between Appellants and Appellees (or their respective predecessors-in-interest), during the relevant prescriptive periods, was insufficiently close to shift the burden of proving adversity to Appellees. As discussed at length in the trial and the facts cited above, there were no close connections here. The Hankins had no family or neighborly connection with Appellants or their predecessors in interest. Similarly, the Edges neither knew nor associated with Appellants or their predecessors. Kaiulani Lee testified that she was much older than Sarah and Rebecca Sewall and did not come to know them until later in life, long after prescriptive rights were created. Richard Lee described the relationship with the Sewalls as nothing more than "cordial." Sarah and Rebecca Sewall both admitted they did not grow up with Kaiulani or Richard Lee, and did not get to know them until much later than the relevant

period. (*1/31/25 Tr. 61, 94, 97.*) Tevere MacFadyen testified that he was terrified of Jane Sewall and had little to no interaction with or knowledge of the rest of the Sewalls. The simple fact is that neither a common great grandfather nor a common road between houses makes a close connection. Adversity should be presumed; alternatively, here, any presumption of permission was plainly overcome by the factual record; and the trial court's judgment should be upheld.

E. The trial court did not err in declining to find a friendly-neighbor exception to the presumption of adversity.

In apparent recognition that the family connection between Appellants and Appellees is either weak or nonexistent, Appellants devote much of their Brief to urging this Court to expand Maine law to include an ill-defined, so-called "friendly neighbor" exception to the presumption of adversity. (*Blue Br.* 25-33.) For two reasons, Appellants' argument is misplaced: (1) this is not an appropriate case in which to address the issue, because the trial court already analyzed the closeness and nature of the landowners' relationships under the "family" exception, and (2) the friendly neighbor exception would not be good policy for Maine.

i. The peculiar facts of this case, which already involves distant family members and a thorough analysis of the "family" exception, make it an inopportune vehicle to consider whether to adopt a "friendly neighbor" exception.

This is not an appropriate case in which to make a change in Maine law that will have far-reaching implications. Here, the familial and social relationships between the landowners have already been scrutinized at length by the trial court, and nothing would be gained by re-analyzing the landowners' relationships under an alleged "friendly neighbor" rubric. The analysis would be the same, and it is the analysis that the trial court (at Appellants' insistence) performed.

As Appellants' own counsel stated in closing, this case involved "the unique facts and circumstances of how the Small Point community arose through the generations, how property rights were treated among generations, how the community was kind of a joint effort." (*1/31/25 Tr. 173:9-12*.) Appellants spend eight pages of their Brief extolling the virtues of the "friendly neighbor" exception immediately after chastising the trial court for essentially conducting a "friendly neighbor" analysis. The trial court simply rejected Appellants' argument that the community is one where access rights depend on the neighbors' good graces and can be withdrawn at any time. Requiring the trial court to again analyze the facts under a "friendly neighbor" standard would be an exercise in futility.

Moreover, as noted above, the use of the easement in this case cannot be explained solely by neighborly accommodation. As the trial court observed, Appellees' "use of the Navy Road was the only way they accessed their property" for themselves, their guests and their contractors. (*A. 64*.) That is a far cry from the beneficial, but not really necessary, uses at issue in most of the cases cited by Appellants.[15] And Appellants' assertion that "Small Pointers made great efforts to exclude outsider use of Navy Road while simultaneously freely allowing use among neighbors," (*Blue Br*. 33), does not assist them. It is hardly surprising that neighbors would seek to prevent access by "outsider[s]" over a private road, and it certainly does not suggest that the use made by persons who do access their land over that road is permissive rather than prescriptive.

ii. The "friendly neighbor" exception would unsettle Maine prescriptive easement law and have negative policy consequences.

This Court should reject the "friendly neighbor" exception for several additional reasons. First, a broad "friendly neighbor" exception would effectively

---

[15] *See McNeill v. Shutts*, 258 A.D.2d 695, 697 (N.Y. App. Div. 1999) (claimed easement for "hunting, fishing and other recreational purposes"); *Butterfly Realty v. James Romanella & Sons, Inc.*, 93 A.3d 1022, 1025-26 (R.I. 2014) (access to loading dock by semi-trailers, where easement claimant already had express easement that specifically excluded semi-trailers); *O'Dell v. Stegall*, 703 S.E.2d 561, 571 (W.V. 2010) (noting that the claimant "already ha[d] access to" the public road by way of a driveway on his own property); *Dewey Beach Lions Club, Inc. v. Longanecker*, 905 A.2d 128, 136-37 (Del. Ct. Ch. 2006) (putative servient landowner had allowed the public generally to use the land on which an easement was claimed, and claimants had not distinguished themselves from the general public); *Burnham v. Kwentus*, 174 So.3d 286 (Miss. Ct. App. 2015) (prescriptive easement claimant already had alternative access to his property).

render the presumption of adversity a dead letter. After all, the vast majority of prescriptive easement cases are between neighbors -- often, direct abutters -- who will readily be able to point to instances of friendly relations. *Cf.* John A. Lovett, *Restating the Law of Prescriptive Easements*, 104 Marq. L. Rev. 939, 1026 (2021) (noting that a broad friendly neighbor exception will "undermine the utility of the [presumption of adversity]," because "there will be countless cases in which some evidence of neighborly accommodation is produced, even though the meaning of such evidence is unclear and will often be met with contradictory evidence that the accommodation only amounted to acquiescence to (and permission of) a claimant's non-interfering use"). Similarly, Maine's basic presumption of adversity discourages litigation by making it easier for landowners and their attorneys to identify a prescriptive easement without judicial intervention. *See id.* at 950 (noting that the "virtues" of the presumption of adversity include "simplicity and ease of application" and that it "tends to produce consistent outcomes across a wide variety of contexts and thus promotes certainty in the law"). Adopting a vague "friendly neighbor" exception would make that analysis hopelessly indeterminate.[16] *See Larsson v. Hurst*, No. F046355, 2005 WL 2293034, at *3

[16] The so-called "friendly neighbor" exception could be invoked in practically every prescriptive easement case. It would be the exception that swallows the rule, as it would turn the presumption of adversity on its head and deprive the bar of a straightforward standard for determining and resolving

(Cal. Ct. App. Sept. 21, 2005) ("What constitutes 'neighborly' may vary significantly among differing regions and demographics.").

Second, contrary to Appellants' suggestion that the friendly neighbor exception would encourage neighborly accommodation, it would actually have the effect of rewarding silence and concealment. For one thing, it would not shape behavior going forward. Maine law has never recognized a "friendly neighbor" exception, but Maine hardly suffers from a lack of neighborly courtesy. Neighborly accommodation exists in happy harmony with a presumption of adversity, because a landowner can simply say or do something to make clear that the use is by permission. Good neighborly relations are fostered by encouraging communication, not turning silence into a tactical advantage when a dispute arises. And the result of applying such a rule would be to unjustly reward a landowner who, despite knowing that the neighbor is making open use of his land, does nothing to clarify the situation -- just as would happen here if the Court were to adopt this new rule and apply it to Appellees' long standing use of Navy Road.

Finally, the "friendly neighbor" exception is ill-suited to illuminating the adversity inquiry. Under Maine law, adversity is about the user's state of mind, not the servient owner's. *See, e.g.*, *Androkites*, 2010 ME 133, ¶ 21, 10 A.3d 677

---

prescriptive easement rights without resort to the courts.

("adversity" is "a claim of right adverse to the owner" (quotation marks omitted)); *Glidden v. Belden*, 684 A.2d 1306, 1317-18 (Me. 1996) ("the prescriptive user's state of mind is relevant to proof that the use is adverse under a claim of right"). Here, the evidence from all Appellees made clear that they were acting under a claim of right -- they said so, and why else would one subdivide land into parcels only accessible by Navy Road, convey such parcels, build houses accessible only by Navy Road, maintain Navy Road, and pay others to maintain that road?

For these reasons, the "friendly neighbor" exception remains a minority rule. *See* Lovett, 104 Marq. L. Rev. at 1017-26. While this case does not present an opportunity to consider the "friendly neighbor" exception, should the Court reach the issue, it should reject the proposal.

F. The trial court did not err in finding that Appellees carried their burden to show adversity even without application of the presumption.

As discussed above, the evidence of decades-long usage by the Appellees which plainly was under a claim of right and adverse to the servient estate, is overwhelming. No reasonable person would build a house on a parcel solely accessible by a road that he had no right to use; similarly, no reasonable person would allow that person to so use their land, and remain silent. As outlined above, the adverse use was not a quiet trot across a lawn to get to the beach. This adverse usage included loud, years-long construction with chain saws, hammering, well

drilling, large trucks, heavy equipment, and countless material deliveries which all traversed Navy Road across Appellants' tiny sliver of the road. This adverse use involved conveying parcels with access only via Navy Road, and the creation of single driveways for ingress and egress only via Navy Road. This adverse use included giving permission to others to use Navy Road, as well as holding large gatherings and inviting hundreds of guests to travel Navy Road. This adverse use included subdividing family property, and having surveyors plainly mark lot corners along Navy Road that no one could ignore. In addition to all of this continuous activity by Appellees -- activities dating back to a time when Appellants' properties were largely in common ownership (with the one possible exception being the Hankin lot, which was transferred by CSE in the 1950s)[17] --

[17] Appellants also challenge the trial court's findings of continuous use by Lots 9-2 and 9-3. (*Blue Br.* 35-41.) Their arguments are based on two fundamental legal errors. First, Appellants' incorrectly contend that only Camilla Edge Lee's individual use of Navy Road is relevant to the 1972-87 period. (*Blue Br.* 37-39.) On the contrary, use of a way by the landowner's household members, invitees, and guests may also be adequate to establish prescriptive rights. *See, e.g.*, Restatement (Third) of Property: Servitudes § 2.16 cmt. e ("Prescriptive uses need not be made personally by the owner of the claimed prescriptive servitude, but may be made by tenants, customers, guests, and visitors of the claimant."); *see also, e.g.*, *Powder River Ranch, Inc. v. Michelena*, 103 P.3d 876, 882 (Wy. 2005). Here, Richard Lee was Camilla Edge Lee's son and lived with her at the time. Undisputed evidence of his use of Navy Road from 1972 to 1987, is sufficient alone to justify the trial court's continuity finding. Moreover, it would be completely reasonable for the court to have inferred that if Camilla's son was using it in such a way, Camilla herself made similar or related uses.

Second, Appellants' assertion that Richard Lee's testimony reflects only "sporadic" use, (*see Blue Br.* 40), is at odds with the principle that this Court will "defer to the fact-finder's decision as to (1) which witnesses to believe and not believe, (2) what significance to attach to particular evidence or exhibits, and (3) what inferences may or may not be drawn from evidence or exhibits." *Lincoln v. Burbank*, 2016 ME 138, ¶ 59, 147 A.3d 1165; *see also Allen v. Rae*, 2019 ME 53, ¶ 7, 206 A.3d 902 (noting that even when

Appellants gave and received deeds which specifically acknowledged that their fee interest in the road is subject to the rights of others to use the road. If such usage by Appellees does not constitute adverse use sufficient to create prescriptive rights, then it is difficult to fathom what use would. The truth is that you can't get more adverse than Appellees' usage of Appellants' small piece of Navy Road.

II. The Trial Court Correctly Defined the Scope of the Kaiulani and Edge/Kassenaar Easements to Include Construction and Use of a Single-Family Residence.

Appellants also complain that the trial court erred by defining the scope of the prescriptive easement benefiting the undeveloped Kaiulani Lee and Edge/Kassenaar lots (Lots 9-2 and 9-3) to include construction and use of a single-family residence. (*Blue Br.* 41-44; *see A. 67-68*.) The trial court properly applied this Court's precedents and balanced the need to define the scope of a prescriptive easement without making unsupported prognostications about all possible future uses. The trial court's finding is tied to, and amply supported by, the evidence, and

---

"a motion for further findings is denied," the factfinder "may nevertheless have drawn reasonable inferences from circumstantial evidence presented at trial"). Here, the trial court may have reasonably and justifiably inferred, from Richard's testimony about specific instances of using Navy Road and the regularity of the use of the road generally, that such use was sufficiently continuous to establish a prescriptive easement – which "does not necessarily require daily, weekly, or even monthly use." *Longview Hotel Condo. Ass'n v. Pearl Inn Condo. Ass'n*, 2024 ME 69, ¶ 19, 322 A.3d 1213 (quotation marks omitted) (adverse possession). Appellants' selective and decontextualized excerpting from Richard's testimony is not persuasive in light of the extensive activities described therein and cited above.

is buttressed by the fact that Appellants admitted in their pleadings that such a right of access existed, but objected only to its scope.[18]

"In order to remain useful to the dominant estate it serves, a prescriptive right of way must encompass some flexibility of use, and adapt to natural and foreseeable developments in the use of the surrounding land." *Gutcheon v. Becton*, 585 A.2d 818, 822 (Me. 1991). "In ascertaining whether a particular use is permissible under an easement appurtenant created by prescription there must be considered . . . the needs which result from a normal evolution in the use of the dominant tenement and the extent to which the satisfaction of those needs increases the burden on the servient tenement." *Bray v. Grindle*, 2002 ME 130, ¶ 16, 802 A.2d 1004 (quoting Restatement (First) of Property § 479 (Am. Law Inst. 1944)). That is exactly what the trial court did, and the judgment should be affirmed. *See Benner v. Sherman*, 371 A.2d 420, 423, n. 2 (Me. 1977) (affirming finding of prescriptive easement to reach lakefront parcel for recreational purposes,

---

[18] *See* Sewall/Conroy cross-claim counterclaims as to (a) Edges filed June 6, 2023, ⁋ 36 (acknowledging that the Claimants "hold a[n] . . . easement to use the Trustee's section of Navy Road for pedestrian travel consistent with neighborhood uses and traditions"); (b) as to KS Lee dated January 11, 2023 (seeking a determination that the "owners of the KS Lee Lot have an easement to use the Trustee's section of Navy Road for pedestrian travel consistent with neighborhood uses and traditions," prayer at subparagraph e); (c) as to GCI dated November 14, 2022 (seeking a determination that the "owners of the GCI Lot have an easement to use the Trustee's section of Navy Road for pedestrian travel consistent with neighborhood uses and traditions," prayer at subparagraph e).

and noting that trial court was in best position to determine any appropriate limitations on prescriptive easement to avoid overburdening the easement).

Here, the trial court ruled that the use of Lots 9-2 and 9-3 for single-family residential use was the "normal evolution" of those lots, and further explained – echoing this Court's analysis in *Gutcheon* -- that such an evolution would not "burden[] the [Appellants'] estate[] under normal circumstances." (*A. 67-68* (emphasis added).) This finding was amply supported by the record, which contained large quantities of evidence regarding the use of Navy Road for residential access, as well as by this Court's holding in *Gutcheon* that "the conversion of formerly undeveloped property to residential use" will not "result in a *per se* overburdening of a prescriptive right of way." 585 A.2d at 822.

Bray is not to the contrary. There, this Court held that a trial court should not preemptively limit the scope of a prescriptive easement to certain specific uses, in the absence of evidence relating to any other prospective uses. 2002 ME 130, ¶¶ 18-20, 802 A.2d 1004. That ruling is entirely consistent with *Gutcheon*'s and the Restatement's focus on preserving flexibility for the future evolution of the dominant estate. Moreover, in this case, unlike in *Bray*, the trial court did hear evidence about the burden on the Appellants' parcel by use of Navy Road for residential use. Indeed, there was substantial testimony from the owners of all of

the single family residences on Navy Road, from the Appellants' property to the end of Small Point, including lengthy testimony about the evolution of Navy Road, its long-standing usage for access to residential properties, and the impact of such usage on Appellants' property. The trial court did not rule that the use of Lots 9-2 and 9-3 could never overburden the easement, but simply that because use of a single-family residence would not overburden the easement "under normal circumstances," construction of a single-family residence is within the scope of the easement. This ruling is entirely concordant with *Benner, Gutcheon*, and *Bray*. Refusing to allow a trial court to declare any prospective parameters for the scope of a prescriptive easement, as Appellants read *Bray* to suggest, would be deeply inefficient and unfair to the parties -- not just here, but in practically every prescriptive easement case. Here, the trial court's evidence-based judgment that construction of one single-family residence is within the easement's scope avoids litigating that issue in the foreseeable future. With the parties having spent three full years, five days of court time, and huge resources litigating this case, the trial court did the parties a great service and correctly defined the easement's scope.

III. The Undisputed Evidence Supports Finding that Appellants Had Residential Prescriptive Rights as Early as 1985.

Further, relative to Lots 9-2 and 9-3 and the other properties in the CSE chain of title (including the unimproved GCI Lot 11), there is another reason that

the trial court reached the right result in recognizing Appellants' prescriptive rights. As Appellees explained in detail in their closing arguments before the trial court, *see 1/31/2025 Tr. at 159-164*, the adversity for all of these parcels began – at the latest -- in 1965, when CSE used Navy Road to construct the Upper House, and continued to use it thereafter. When CSE died in 1972 and her property was divided amongst her heirs, each of those properties succeeded to CSE's use, such that, by 1985, all of the properties (which continued to be used by CSE's heirs) had satisfied the elements for adverse possession for the use of Navy Road generally. *See Gutcheon,* 585 A.2d 818 (applying tacking analysis to find a prescriptive right to use property for residential purposes, including finding that the prescriptive period had run as to out-conveyed parcels even where the conveyed parcel remained undeveloped). Thus, while the trial court chose to focus on a later time period, the undisputed evidence also supports a conclusion that all of the lots in the CSE-originated chain of title (now owned by Appellees) had established prescriptive rights to use Navy Road for all residential purposes as early as 1985.

IV. Alternatively, the Undisputed Evidence Requires that the Court Find an Easement by Estoppel and Estoppel by Deed.

The undisputed evidence plainly gives rise to an easement by estoppel. Thus, even if this Court somehow concludes that the evidence was insufficient to establish prescriptive easement rights, the judgment should be affirmed.

An easement by estoppel is created where "the owner or occupier [of land] permitted another to use that land under circumstances in which it was reasonable to foresee that the user would substantially change position believing that the permission would not be revoked, and the user did substantially change position in reasonable reliance on that belief." Restatement (Third) of Property: Servitudes § 2.10(1) (Am. Law Inst. 2000, Westlaw Sept. 2025 Update). "Normally the change in position that triggers application of the rule stated in [Section 2.10(1)] is an investment in improvements . . . to the servient estate." *Id.* cmt. e. In one seminal case involving facts very similar to those present here, the court explained:

> The use of the roadway by appellees to get to their home from the public highway, the use of the roadway to take in heavy equipment and material and supplies for construction of the residence, the general improvement of the premises, the maintenance of the roadway, and the construction by appellees of a $25,000 residence, all with the actual consent of appellants or at least with their tacit approval, clearly demonstrates . . . that the right to the use of the roadway had been established by estoppel.

Holbrook v. Taylor, 532 S.W.2d 763, 766 (Ky. 1976);[19] *see also Assad v. Sea Lavender, LLC*, 129 N.E.3d 878, 884-85 (Mass. Ct. App. 2019) (easement by

[19] In *Woods v. Libby*, this Court affirmed a trial court's finding that an easement by estoppel had not been created by the agreed-upon construction of a driveway on the claimant's neighbor's land. 635 A.2d 960, 960-62 (Me. 1993). The Court noted that the claimant "could construct a parking pad or build a driveway on his own land" with mere "inconvenience," and distinguished *Holbrook* on the basis that, in that case, the road "was the only means of access to the [claimant's] lands." *Id.* at 962; *see also Lippincott v. Smiledge*, No. CV-95-404, 1996 WL 34673604, at *1 (Me. Super. Ct. Feb. 7, 1996) (noting that *Woods* "indicate[s] that an easement could be established through the principle of equitable estoppel" (cleaned

estoppel arose where "[the servient owner] reasonably should have foreseen that [the claimant] would not have contributed substantial sums to the creation of a sewage disposal system if permission to use the system were revocable at any time"); *Mund v. English*, 684 P.2d 1248, 1249-50 (Or. Ct. App. 1984); *Exxon Corp. v. Schutzmaier*, 537 S.W.2d 282, 285-86 (Tex. Ct. Civ. App. 1976) (easement by estoppel arose where defendants knew that claimants made improvements on their property based on having access over single road, but defendants said nothing for decades).

Here, the undisputed facts are that a road existed in the same location as Navy Road in the 1950s (and probably many decades before that). In the 1950s, several Appellees (and witness Sallie Comey) walked that road with their family members, from Seal Cove Road to the Pond and beyond. By necessity, that route took them across the tiny portion of Navy Road now owned by Appellants.

Further, the undisputed evidence is that in or about 1960 the Navy was given, by all of the owners of the parcels at issue, a non-exclusive easement to use and improve that road. This was, in essence, a joint enterprise by the then landowners to (1) enable the federal government to erect and occupy a rake station at the end of Small Point, and (2) to improve their own access to the western sides

---

up)). Here, Navy Road does provide the sole access to Appellees' land and houses.

of their land. Shortly thereafter, the Navy improved the road. The landowners continued to use that road to access their properties, throughout the intervening decades until today. Appellees used the road to drive to and from their land, to establish subdivisions with parcels accessed only via Navy Road, to convey those parcels, to clear the land, to create driveways, to build homes, to maintain and renovate those homes, and to do all of the things that anyone would do in owning and maintaining property. Throughout many decades of use, Sarah Sewall's ancestors, and ultimately Appellants, acquiesced in this usage. They plainly knew that Appellees' land was being used in these ways and that Appellees were relying on their rights to use Navy Road to subdivide, develop and access their properties. Yet, never, until 2021, did any owner of Appellants' land suggest that Appellees did not have a right to use Navy Road.

Moreover, Appellants both signed deeds and accepted deeds that acknowledged the rights of others to use the Navy Road. *Trial Ex. 81, 82, 83, 84, 94*. There can be no doubt that the language in Appellants' deeds refers to the rights of Appellees to use Navy Road to access their properties, as they had been doing for decades. If the "others" referred solely to Sarah Sewall's two siblings, the Sewalls plainly would have so stated in the deeds, as they did in the deeded easement to cross Rebecca Sewall's land to access the pond. *Trial Ex. 81*.

Appellants were well aware of the ongoing usage of Navy Road by the landowners south of them, who had owned land and houses accessed by Navy Road since before Appellants were born. Appellants are now estopped from denying the existence of Appellees' rights to cross Navy Road.

The trial court addressed this issue only briefly, (*see* A. 69), and made errors of both law and fact in ruling that an easement by estoppel had not been established. First, the trial court committed legal error in requiring Appellees to show "affirmative statements" by Appellants or their predecessors in interest in order to establish an easement by estoppel. (*1/31/25 Tr. 147:12-14, 147:22-148:2, 149:10-17*.) For instance, the trial court referred solely to this Court's decision in *Bathport Building, Inc. v. Berry*, 490 A.2d 663 (Me. 1985), as setting out the relevant law on easement by estoppel.[20] (*See A. 69; 1/31/25 Tr. 119:2-18*.) The trial court apparently did not recognize the law which makes clear that an easement by estoppel may, indeed, be established by tacit (but clear) approval in some circumstances -- circumstances that unquestionably are present here.

[20] *Bathport* involved a very different fact pattern than the one here and in the cases cited above. In that case, there was an oral contract for the creation of a parking easement, and the claimant paid $11,000 for the easement, but the easement deed was never executed or recorded. 490 A.2d at 664-65. This Court found that by accepting the benefit of the oral contract (the payment), the defendant was estopped from denying its validity. *Id.* at 665-66. *Bathport* sheds no light on the easement by estoppel claim here.

Second, the trial court appears to have misapprehended the import of the facts of this case. *See Morin v. Dubois*, 1998 ME 160, ¶¶ 3-4, 713 A.2d 956 (even though the trial court "failed to clearly articulate its consideration of the factors" relevant to the factual dispute in that case, this Court was "convinced that [the trial court] clearly misapprehended the meaning of the evidence and that the evidence compel[led] a finding for the plaintiffs"). Indeed, the trial court did not make any express factual findings relating to the easement by estoppel claim. (*See A. 69*.) However, on the undisputed facts and evidence, an easement by estoppel was necessarily established by operation of law. As explained above, the undisputed evidence is that, in or about 1960, both Appellants' and Appellees' predecessors in interest engaged in a common effort to cause the improvement of Navy Road for all of their collective benefits (and that of the U.S. Navy) relative to access to their respective properties. Since the 1960s, Appellees and their predecessors-in-interest have acted accordingly, and have used Navy Road to access their properties, without any other viable means of access. They used the road to drive to and from their land, subdivide land into lots accessed only via Navy Road, convey those lots, clear the land, create driveways, build homes, maintain and renovate those homes, and do all of the things that anyone would do in owning and maintaining property.

Throughout these many decades of use, starting with their participation in the effort to facilitate the Navy's improvement of the road for their benefit, Sarah Sewall's ancestors and ultimately Appellants acquiesced in this usage, to the point of engaging in communications with Appellees about sharing maintenance costs. They signed and accepted deeds referencing the broad rights of others, which necessarily includes Appellees, to use the road, and gave permission to utility providers to cross their land to provide utilities to Appellees. *Trial Ex. 100, 101*. They plainly knew that Appellees' land was being used this way, and that the landowners were relying on their rights to use Navy Road to subdivide, develop and access their properties.

If this evidence is insufficient to create an easement by estoppel, query what evidence would possibly be sufficient. This case is a textbook example of the law on this type of easement creation. *See Holbrook*, 532 S.W.2d at 766; Restatement (Third) of Property: Servitudes § 2.10 cmt. e illus. 5 (describing an easement by estoppel on facts practically indistinguishable from those present here). Even if the trial court had the right legal standard in mind -- although, based on its comments at closing, it likely did not -- it committed clear error in finding that Appellees do not hold an easement by estoppel.

Ironically, while Appellees vigorously oppose both Appellants' misinterpretation of *Androkites* and their press to expand its scope to include "friendly neighbors," the paradox is this: if Appellants are right, then Appellees' claim for an easement by estoppel is stronger. The easement by estoppel theory is premised on the idea that allowance of use -- whether express or tacit -- that induces substantial and reasonable reliance gives rise to enforceable easement rights in circumstances such as those presented here. Equity recognizes that the duty to speak up, or accept another's rights flowing as a consequence of one's silence, is heightened in circumstances where the relationship between the parties is close. *See Peterson v. Groves*, 44 P.3d 894, 896-97 (Wash. Ct. App. 2002) ("The existence of a close family relationship has been held to be an important factor as a basis for reliance" in equitable estoppel cases); *Zick v. Krob*, 872 P.2d 1290, 1294-95 (Colo. Ct. App. 1993) (finding reliance on conduct to be reasonable, for purposes of estoppel claim, in part due to the "familial relationships involved"). Thus, if the trial court somehow erred in finding that the parties' relationships are not close enough to negate the presumption of adversity, then the easement by estoppel claim becomes commensurately stronger. Other than the alleged closeness of the parties, the same facts that support prescriptive easement rights also support an easement by estoppel, and would take on particular gravity in the estoppel

analysis if Appellants were successful in rendering their and their predecessors' 50+ years of silence as irrelevant to the prescriptive easement analysis, based on a mechanistic "friendly neighbor" theory.

Ultimately, for this Court to find at this late date that Appellees have no rights to use their property would be a grave miscarriage of justice. Such a ruling would cause Appellees to suffer incredible emotional and monetary losses, by depriving them of the property they have used and loved for literally their entire lives. Such a ruling would render their property worthless in every sense, thereby easily satisfying the detrimental reliance element. Such a ruling would send a message to others throughout Maine to cut off their neighbors' access, no matter how long the history of usage. By contrast, Appellants would gain little by cutting off Appellees' rights to use the quiet Navy Road.

V. Reversing the Trial Court's Finding of Easements in Favor of Appellees Would be Bad Public Policy for Maine, and Would Have Far-Reaching Implications for Our Many Waterfront Communities.

Small Point is not unique in that waterfront property in Maine has been purchased and passed onto succeeding generations forever. There are communities like this all over Maine -- on the ocean and on our countless lakes, ponds and rivers. Like Appellants, many come from out of state to get away from bigger cities. But once they get here, they often seek to exclude others.

If all it takes to get more land, or exclude access over a long-used road, is to claim that you're a friendly neighbor, as Appellants urge, then the Court can expect a barrage of litigation by landowners who don't like cars driving by their piece of vacationland, or don't really like their neighbors, or want to devalue their neighbors' properties so that they can buy them at a steep discount. It's ironic that Appellants refer to this as a "friendly neighbor" rule; in real life, it would encourage conduct that would be anything but friendly or neighborly.

We don't need a new rule in Maine. Current case law is sufficient and gives the court the ability to consider the evidence presented and determine whether the usage at issue is truly adverse – exactly as the trial court did here, after considering testimony from 15 witnesses and more than 150 exhibits (mostly stipulated). The trial court's judgment carefully weighed the evidence and correctly ruled in Appellees' favor based on the overwhelming weight of the evidence. The judgment should be affirmed.

CONCLUSION

For the foregoing reasons, Appellees respectfully request that this Court affirm the judgment of the trial court.

Respectfully submitted this 24th day of October 2025.

/s/ Elizabeth A. Germani
Elizabeth A. Germani, Bar No. 7422
/s/ Jeffrey T. Piampiano
Jeffrey T. Piampiano, Bar No. 9309
/s/ Oliver Mac Walton
Oliver Mac Walton, Bar No. 6340

DRUMMOND WOODSUM
84 Marginal Way, Suite 600
Portland, ME 04101
Tel: (207) 772-1941
egermani@dwmlaw.com
jpiampiano@dwmlaw.com
owalton@dwmlaw.com
Counsel for Cross-Appellants Montagu Reid Hankin, Bondie Hankin, Gun Club, Inc., Lee Family Corp., Kaiulani Sewall Lee, Albert Edge, Lisa Edge Schraeter, Walter E. Edge, II, the Edge Trust, and Anne Judith Kassenaar

CERTIFICATE OF SERVICE

I, Elizabeth A. Germani, hereby certify that on this 24th day of October 2025, I caused two (2) copies of the foregoing Brief of Appellees to be served on counsel to the other parties to this appeal by first-class mail, postage prepaid, and provided a courtesy copy by electronic mail to the following, unless, pursuant to M.R. Civ. P. 5, that party expressly agreed to accept service by electronic means, in which case, they were served with a copy of Appellee's Brief via e-mail only.

Emily Anne Arvizu, Esq.
Counsel for Appellants Sarah B. Sewall, Thomas P. Conroy, Sarah B. Sewall as Trustee of Sarah B. Sewall Revocable Trust, Sarah B. Sewall as Trustee of Thomas P. Conroy Revocable Trust, and Thomas P. Conroy as Trustee to Sarah B. Sewall Revocable Trust
earvizu@perkinsthompson.com

Shea H. Watson, Esq.
Counsel for Appellants Sarah B. Sewall, Thomas P. Conroy, Sarah B. Sewall as Trustee of Sarah B. Sewall Revocable Trust, Sarah B. Sewall as Trustee of Thomas P. Conroy Revocable Trust, and Thomas P. Conroy as Trustee to Sarah B. Sewall Revocable Trust
swatson@perkinsthompson.com

Sean Turley, Esq.
Counsel for Sallie Lane Comey Sewall
sturley@mpmlaw.com

Thomas L. Douglas, Esq.
Counsel for Rebecca C. Cuthbert and Rodger M. Cuthbert
tdouglas@douglasmcdaniel.com

James G. Monteleone, Esq.
Counsel for Albert Edge, Anne Kassenaar, Lisa Edge Schraeter and Walter Edge
jmonteleone@bernsteinshur.com

Aliza W. Edwards, as Co-Trustee of the Kaiulani Sewall Williams Trust
F/B/O Ann Winter
P.O. Box 1527
Concord, MA 01742

Camilla Behn
134 Highland Drive
Warren, VT 05674

Chester S. Brett
145 Starkweather Hill Road
Worthington, MA 01098

David W. Brett
145 Starkweather Hill Road
Worthington, MA 01098

Pamela B. Carpenter
145 Starkweather Hill Road
Worthington, MA 01098

Shawn MacDonald
86 Massachusetts Ave
Harvard, MA 01451

Rebecca P. Sewall, Pro se
86 Massachusetts Ave
Harvard, MA 01451

Loyal F. Sewall III, Pro se
40 Oak Street, Apt. 1
Westbrook, ME 04092

U.S. Trust Company of Delaware, as Co-Trustee of the Kailulani Sewall Williams Trust F/B/O Ann Winter, Pro se
2951 Centerville Road, Suite 200
Wilmington, DE 19808

Walter E. Edge, Jr., as Trustee Under Article Ninth D. of the Last Will and Testament of Camilla Sewall Edge, Pro se
18 King Edge
Woodstock, NY 12498

Astrid F. Williams
12 West View Lane
Stow, MA 01775

Christopher Williams
c/o National W. Williams
31 Melbourne Ave.
Reading, MA 01867

John C. Williams
113 Elliott Farm Road
Warren, VT 05674

Mark Williams
1050 Main Rd.
Westport Island, ME 04578

M&T Bank as Successor to Chittenden Trust Co., as Trustee of the Kaiulani S. Williams Trust F/B/O Ann Winter
c/o Nathaniel W. Williams
31 Melbourne Ave
Reading, MA 01867

John Chandler
42 Woodward Point Road
Brunswick, ME 04011

William Chandler, Pro se
42 Woodward Point Road
Brunswick, ME 04011

Horizon Trust Co., NA, as Trustee Under Ninth D Last Will & Testament of
Camilla Sewall Edge, Pro se
530-B Harkle Road, Suite 100
Santa Fe, NM 87505

Darthea C. Marentette, Pro se
42 Woodward Point Road
Brunswick, ME 04011

Abigail C. Norling, Pro se
42 Woodward Point Road
Brunswick, ME 04011

Arthur Williams, Pro se
c/o Nathaniel W. Williams
31 Melbourne Ave
Reading, MA 01867

Nathaniel W. Williams, Pro se
31 Melbourne Ave
Reading, MA 01867

Dated: October 24, 2025

/s/ Elizabeth A. Germani
Elizabeth A. Germani, Bar No. 7422
Jeffrey T. Piampiano, Bar No. 9309
Oliver M. Walton, Bar No. 6340
DRUMMOND WOODSUM
84 Marginal Way, Suite 600
Portland, ME 04101
Tel: (207) 772-1941
egermani@dwmlaw.com
jpiampiano@dwmlaw.com
owalton@dwmlaw.com
Counsel for Cross-Appellants Montagu Reid Hankin, Bondie Hankin, Gun Club, Inc., Lee Family Corp., Kaiulani Sewall Lee, Albert Edge, Lisa Edge Schraeter, Walter E. Edge, II, the Edge Trust, and Anne Judith Kassenaar