MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Docket No. Cum-25-357

JOHN M. CARTER,

(*Plaintiff/Appellee*)

v.

ANN C. MARTIN,

(*Defendant/Appellant*)

On Appeal from the Cumberland County (Portland) District Court

---

BRIEF OF APPELLANT ANN C. MARTIN

Carl E. Woock, Esq. – Bar No. 5657
Attorney for Appellant Ann C. Martin
STEVE SMITH TRIAL LAWYERS
191 Water Street
Augusta, Maine 04330
(207) 622-3711
info@americantrialgroup.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

RULES

TREATISES

OTHER AUTHORITIES

FACTS AND PROCEDURAL HISTORY

This appeal arises from a final divorce judgment that was entered by the district court *nunc pro tunc* despite the death of one of the divorce parties prior to the signing of the final judgment.

John Carter (hereafter "Appellee" or "Mr. Carter") and Ann Martin (hereafter "Appellant" or "Ms. Martin") were married in 2015. Mr. Carter filed for divorce on March 31, 2023. A two-day final hearing was scheduled for June 2025. Instead of having a contested final hearing, the parties reached an agreement and consented to proposed terms to a judgment on the record on June 6, 2025. See APP035-50. The presiding judge orally announced that the divorce was final during the hearing. APP046. No final written order was issued, signed, or entered that day, and part the oral ruling involved a provisional agreement that the parties to cooperate in the near future to exchange unsettled personal property. APP045-50. Mr. Carter died on June 26, 2025. On July 3, 2025, the Court signed a final judgment, adding that the judgment was "*nunc pro tunc* to 6/6/25, when judgment was placed on the record." APP028. Two Real Estate Orders conveying real property to the parties were signed on July 3, 2025, with the same "*nunc pro tunc* to 6/6/25" addenda. See APP029-32. The clerk docketed the final judgment on the same day it was signed, July 3, 2025. APP028.

Ms. Martin filed a Post-Judgment Motion for Relief from Judgment or to Amend on or around September 5, 2025, arguing that the district court had no jurisdiction to enter the final judgment due to the death of a party, as the case had abated. See APP061-71. The district court denied the motion, citing *Boland v. Belair*, 2025 ME 31, ¶ 11, 334 A.3d 682. APP060. *Boland v. Belair*, 2025 ME 31, does not relate to a final agreement that was finalized by the courts following the death of any litigant subject to a divorce case.

Ms. Martin timely filed a notice of appeal.

ISSUES PRESENTED FOR REVIEW

I. The district court lacked subject matter jurisdiction when it entered a final judgment after one of the parties to the divorce passed away, and as a result, the final judgment entered after the party's death is void *ab initio*.

II. The district court abused discretion by, upon the supposed authority of *Boland v. Belair*, 2025 ME 31, ¶ 11, ruling that the parties' ostensible divorce agreement prior to a final divorce judgment survived a party's death.

SUMMARY OF THE ARGUMENT

Appellee John Carter (hereafter "Appellee" or "Mr. Carter") passed away on June 26, 2025.[1] A final divorce judgment was signed by the court on July 3, 2025. The district court lacked jurisdiction over the family law matter after Mr. Carter passed away. As such, the district court had no subject matter jurisdiction over the case which it issued a final signed judgment, and the final judgment is void *ab initio*, notwithstanding prior agreements between parties to resolve property interests when the court previously had jurisdiction. If a party to a divorce passes away before the entry of a final judgment, the court should appropriately dismiss the case. The district court here did not. The court, upon receiving an appropriate post-judgment motion from Ms. Martin apprising the court of Mr. Carter's passing prior to its final judgment, should have duly vacated or voided its final judgment for the same reasons. It did not. This was an obvious error that is contrary to good policy and common law in Maine.

The district court signed the Divorce Judgment on July 3, 2025, and it was entered on the docket on the same date. The court added that the decision was "*nunc pro tunc* to 6/6/25, when judgment was placed on the record." The same

[1] Appellee never filed a notice of death to substitute the estate, or any other party, for the late Mr. Carter under M.R. Civ. P. Rule 25. At present, it does appear that there is literally *no party* with standing to represent the interests of the Appellee, although Ms. Martin would acknowledge the substitution of an appropriate party with standing should such a motion be brought in due course. Ms. Martin personally lacks knowledge or information as to who she would to move to substitute as a successor party for Mr. Carter.

retrospective terms appear in the two real estate orders. However, the divorce matter was not ended by a cognizable *final judgment* formally disposing the case in June 2025; the divorce matter necessarily ended on June 26, 2025, upon Mr. Carter's passing; the district court therefore had no jurisdiction to enter a final divorce judgment in July 2025, after Ms. Martin's marriage had already ended definitively. There was no clerical error correcting any actual final judgment that had been entered on or before June 26, 2025. The final divorce judgment, at the time it was signed, was void *ab initio*—including but not limited to its supplied language of retroactive effect.

The Law Court should, with respect, reverse and remand the final judgment of the district court (ordering dismissal for want of jurisdiction), or alternatively, order that the district court must grant Ms. Martin's motion for relief from the final divorce judgment entered without subject matter jurisdiction—achieving the same of end, which is dismissal of the underlying divorce complaint.

ARGUMENT

I. Standard of Review.

The limit of a trial court's jurisdiction is an issue of law that that this Court reviews de novo. *Howard v. Howard*, 2010 ME 83, ¶ 10, 2 A.3d 318. Want of jurisdiction "is fatal in every stage of the case." *Hutchins v. Hutchins*, 136 Me. 513, 4 A.2d 679, 680 (1939).

Following the signing and docketing of the lower court's final judgment, Ms. Martin filed a motion for relief from judgment under M.R. Civ. P. 60(b)(4), which effectively argued the same subject matter jurisdiction issue that the Law Court reviews de novo. APP062. The Law Court will typically review the denial of a M.R. Civ. P. 60(b) motion for abuse of discretion. *Chatfield v. Est. of Chatfield*, 2025 ME 69, ¶ 7, 340 A.3d 126, 129. However, a decision questioned under Rule 60(b)(4) is reviewed de novo, as a challenged judgment "is either valid or void and thus a motion for relief pursuant to M.R. Civ. P. 60(b)(4) is not subject to the discretion of the court." *Boyer v. Boyer*, 1999 ME 128, ¶ 6, 736 A.2d 273, 275.

II. There was no enforceable final divorce judgment in this matter prior to Mr. Carter's passing.

Even though there was ostensibly an agreement between the parties that was acknowledged on the trial record, there was no final signed judgment in the parties' divorce until such time that the district court signed the Divorce Judgment on July 3, 2025. Under M.R. Civ. P. Rule 58, "[a]ny judgment or other order of the court is *effective* and *enforceable* upon signature by the court, or if not signed by the court, then upon entry of the judgment in the civil docket." (Emphasis added.) Here, a signed order was issued July 3, 2025, and the final judgment was docketed the same day. APP024-28.

Maine courts are to construe the words of Rule 58 as written. The depth and sincerity of the parties' apparent agreement prior to a final judgment is immaterial to the actual finality of the case: "The court's signature is the defining moment for a judgment's finality, regardless of the level of agreement between parties leading up to the judgment." *Est. of Banks v. Banks*, 2009 ME 34, ¶ 9, 968 A.2d 525. Only a final *signed* judgment "fully decides and disposes of the entire matter pending before the court . . . leaving no questions for the future consideration and judgment of the court." *Carroll v. Town of Rockport,* 2003 ME 135, ¶ 16, 837 A.2d 148. Similarly, an apparent oral ruling, such as an announcement of findings and conclusions from the bench, does not create a final judgment that triggers deadlines for post-judgment motions. *Roberts v. Roberts*, 2007 ME 109, ¶ 8, 928 A.2d 776 (applied to Rule 52(b) motion filed before a written order was issued); *Boynton v. Adams*, 331 A.2d 370, 373 n.2 (Me. 1975) (affirming court's denial of a post-judgment motion as premature when filed before a written order was entered). To be no less clear than the Law Court has been in the past: an unsigned judgment is not a final signed judgment; an expected or anticipated final signed judgment is not a final signed judgment; an autographed copy of Stephen King's *The Shining* is not a final signed judgment; and so on, and so on.

Absent a final judgment, there is no other decision or ruling to appeal, amend, or—in this case—vacate. As noted by other courts, a judgment must be reduced to

writing and certified by a court, without which "there is a clear risk of lack of notice, ambiguity, and confusion with respect to any such [oral] judgment." *Johnson v. Johnson*, 72 Va. App. 771, 853 S.E.2d 550 (2021).[2] Since Mr. Carter sadly passed away before a final signed judgment was issued by the court and entered in this case, it is a matter of fact (and law) that there was no final judgment when his death ended the marriage in June.

III. Because the marriage was absolutely dissolved upon Mr. Carter's death in June, the Court had lacked jurisdiction when it entered the final judgment in July.

Because Mr. Carter died before the Court issued a final judgment, there was no marriage for the Court to dissolve in its final signed judgment, *nunc pro tunc* or otherwise. Maine courts appear to have not quite dealt with these circumstances before, though principled dismissal of the complaint is consistent with its case law. It is also worth looking at Maine rulings on similar cases, as well as other states' rulings in navigating this very specific issue.

[2] On a comparative note, in *Johnson v. Johnson*, 72 Va. App. 771, 853 S.E.2d 550 (2021), a divorcing couple had their case heard on February 27, 2020, whereupon the court announced oral rulings diving property and announced that it would grant divorce. The wife died before a written decree was entered by the court. The court rejected wife's counsel motion for a *nunc pro tunc* written order as an effective judgment because the marriage terminated before the court's order was entered, and thus, the court's subject matter was terminated too: "A marriage ends upon the death of a spouse . . . . If this occurs before a final court order or decree, the circuit court no longer has statutory subject matter jurisdiction to grant a divorce. . ." *Johnson*, 72 Va. App. 771, 778, 853 S.E.2d 550, 553 (2021) (cleaned up). The court held that it was decisive that the oral ruling preceding the written order could not satisfy the requirements of being a "final judgment." *Id.*

A. Maine law favors dismissal of a divorce case if a party dies before a final judgment has been entered.

A court's jurisdiction over parties in a divorce case is necessary to permit the court to divide the parties' property. See 19-A M.R.S. § 953(1)-(3); *see also Howard,* 2010 ME 83, ¶ 11, 2 A.3d 318 ("In a divorce proceeding, the District Court has subject matter jurisdiction to determine the ownership interests of the spouses in order to divide their marital property."). If a party passes away prior to the final judgment, that party is no long a party to the action, and the court has "no personal jurisdiction over him." *Bolduc v. Bolduc*, 2023 ME 54, ¶ 7, n.4, 301 A.3d 771 (citing *Howard*, 2010 ME 83, ¶ 12, 2 A.3d 318). That simple analysis would seem to answer the fundamental question presented in this appeal, but further context is worth exploring.

Maine intuitively follows the common law rule applicable to most states: the death of a party in a divorce matter prior to a final judgment abates the case.[3] This instinct is inferred from the substance of the Court's reasoning with respect to the finality of a divorce judgment. The locus of concern in *Estate of Banks*, 2009 ME 34, 968 A.2d 525, was the question of whether a final judgment—signed *before* the litigant wife died—was valid if *docketed* post-mortem. The lower court had

[3] See Anthony Bologna, *Comment, the Impact of the Death of A Party to A Dissolution Proceeding on A Court's Jurisdiction over Property Rights*, 16 J. Am. Acad. Matrim. Law. 507 (2000) ("The majority of states follow the rule that the death of a party marks an abatement of the court's jurisdiction over the dissolution proceeding and incidental issues, including property rights.").

dismissed the case upon the surviving (ex-) husband's motion but the Law Court vacated that dismissal: "Because Rule 58 states that a judgment is enforceable and effective upon signature, we conclude that that is when a judgment becomes final." *Est. of Banks*, 2009 ME 34, ¶ 9, 968 A.2d 525. The Law Court added: "We emphasize that the rule adopted here applies to judgments that result from contested hearings as well as judgments incorporating previously-executed settlement agreements." *Id.* This rule follows the plain language of Rule 58, which explains that final judgment rests not on the action of a clerk, but on the signature of the judge.

The simple rule that makes a final judgment valid upon the court's final signature decisively separates the present case from the recent cases that omewhat reshaped Maine's legal landscape regarding the retained jurisdiction of divorce cases pending appeal even if a party dies. This past summer, the Law Court shifted Maine law as described in the decisions of *Weinle v. Est. of Tower*, 2025 ME 62, 340 A.3 66 (overturning *Panter v. Panter*, 499 A.2d 1233 (Me. 1985)) and *Chatfield v. Estate of Chatfield*, 2025 ME 69, 340 A.3d 126. The impacts of both decisions, and the limited effect of those recent rulings on this present appeal, warrant brief discussion.

In *Panter*, the Law Court held that the death of a party pending an appeal rendered the final judgment void and warranted whole-cloth dismissal of the divorce action, reasoning that, "the judgment of divorce—and of course, the division of marital property as well—[had] became mooted." *Panter*, 499 A.2d 1233, 1233 (Me.

1985). The Law Court's decision in *Weinle* directly overturns *Panter*, holding that "the death of a party *during the pendency of an appeal* from a divorce judgment does not moot *the appeal* as to the parties' property rights." *Weinle*, 2025 ME 62,¶ 28 (emphasis added). The Law Court's reasoning for overturning the *Panter* rule was driven, in part, by the observation that "Maine is an anomaly because the *Panter* holding [on the disposition of property rights after a final judgment pending appeal] places Maine in the minority of jurisdictions." *Id.* at 2025 ME 62, ¶ 25 (citation omitted). Relatedly, *Chatfield* involves of even narrower distinctions, concerning "an appeal of a post-judgment motion rather than an appeal of a divorce judgment that has been stayed pending appeal." *Chatfield*, 2025 ME 69, ¶ 9, n.4, 340 A.3d 126. The appeal in that case—driven by a Rule 60 post-judgment motion—challenged the court's factual characterizations of marital and non-martial property in the final order, and dealt with an appellant's passing after he had filed the appeal in question. *Id.* at ¶¶ 1-4.

The distinctions from the present case are self-explanatory. *Weinle* applies, in a limited way, only to the question of a fully adjudicated final order that is stayed by an appeal, where a party died *after* both (1) a final order was timely entered and (2) a notice of appeal was filed. *See Panter*, 499 A.2d at 1233; *Weinle*, 2025 ME 62, ¶¶ 19-20. *See also MacPherson v. Est. of MacPherson*, 2007 ME 52, 919 A.2d 1174 (holding that a surviving ex-wife could not argue that a final judgment was void

when her ex-husband died within the appeal period but *after* the final judgment was entered during his lifetime). *Chatfield* applies in a similar temporal context—i.e., where an appellant dies after a final judgment and pending an appeal—with a different vehicle for appellate review, namely the denial of a Rule 60(b) motion.

While *Panter* might have been deductively supportive to Ms. Martin's present appeal, it does not follow that this Court's decision overturning *Panter* is conversely unfavorable to Ms. Martin. To the contrary, these recent cases align in favor of Ms. Martin's appeal in the present case. Uniting each case is the central question of the validity of the final judgment in question: absent a final judgment, the courts are compelled to dismiss a divorce action. *Estate of Banks*, *Weinle* and *MacPherson* are all distinguishable from the present circumstances, as each involves a *formal* final judgment *preceding* a party's death. In this case, oi June 2025, Mr. Carter's death abated the action *prior to* a final judgment and *regardless* of any inherently unfinalized agreement; the Court, in entering a final judgment after the action had abated, was issuing a final judgment on a matter that it no longer had jurisdiction over. When one party died before the final judgment was issued or entered, that death—not the previous oral agreement of the parties or oral decree of the presiding judge—ended the marriage.

In sum, the Law Court has not precisely answered this issue, but it has strongly—*strongly*—suggests that the answer is a foregone conclusion. No final

judgment can ratify an 'agreement' when one party is dead and jurisdiction is already lost. As soon as the divorce court lacks jurisdiction, well, its jurisdiction is lost. A contrary holding here invites inequitable proceedings whereby a party passes away and the other litigant is able to nudge the court to adjudicate any and all concerns while the late spouse is voiceless. Ms. Martin's requested relief on this appeal should granted in order to preserve Maine law and protect the rationale expectations of litigants.

B. The principle that the divorce matter abates upon the death of a party prior to a final order conforms with other states' common law rulings.

The principle that death abates a divorce action prior to a final judgment is consistent with the law in many jurisdictions where, like Maine, common law (and not a statute dictating a contrary protocol) controls. This section provides a brief survey on instructive cases from jurisdictions with relevant legal regimes.

The premise that a divorce case abates upon a party's death prior to a final decision, regardless of any apparent agreement between the parties, is well-represented in American jurisprudence. The Vermont Supreme Court recently affirmed this rule under comparable circumstances, holding:

> Our law is clear that the death of either party prior to a final divorce order abates a divorce action. . . . There is no exception to this rule that allows the family division to continue to assert its divorce jurisdiction following the death of one party prior to any final divorce order in order to evaluate or enforce a marital settlement agreement between the parties.

Maier v. Maier, 2021 VT 88, ¶¶ 17-19, 266 A.3d 778 (2021). Abatement of the divorce "terminates the [family court's] authority to divide marital property, whether pursuant to a stipulation or a contested hearing." *Id.* at ¶ 18. In New Hampshire, the abatement doctrine draws a bright line between circumstances where a "trial court issued a final divorce decree prior to [a party's] death [and abatement does not apply]" and circumstances where "no divorce decree issued prior to the husband's death" and the abatement principle compelled dismissal of the case. *Matter of Sweatt*, 170 N.H. 414, 418, 173 A.3d 1080 (2017) (citation omitted). In Texas, "[t]he death of either party to the divorce action prior to entry of the divorce decree withdraws the court's subject matter jurisdiction over the divorce action." *Pollard v. Pollard*, 316 S.W.3d 246, 251 (Tex. App. 2010) (citations omitted) (emphasis added).

A South Dakota Supreme Court case charted a surprisingly similar fact pattern to this case. The divorcing parties entered into written stipulation agreement covering all issues associated with the divorce, and orally agreed in court and on the record to be bound by that agreement and to waive trial. *Andersen v. Andersen*, 2019 S.D. 7, ¶ 6, 922 N.W.2d 801. After that occurred, the husband passed away before the judgment and decree of divorce could be entered. The husband's estate moved for the court to enter judgment *nunc pro tunc* to a date predeceasing him, so to enforce the parties' agreement despite his unexpected death. The trial court refused,

ruling that the case had abated, and dismissed the case. The South Dakota Supreme Court upheld the dismissal, ruling:

> The parties' stipulation agreement and the words of the court binding the parties to the agreement were not final. The important and final judicial act of actually entering a judgment and decree of divorce was left to be completed before [the husband's] death. [His] death ended the marriage and abated the jurisdiction of the circuit court to enter a *nunc prop* [sic] *tunc* decree. The circuit court did not err in refusing to enter a decree of divorce *nunc pro tunc.*

Id., ¶ 19, 922 N.W.2d 801. The court emphasized that, the agreement and the expectation of a future final order was *not an actual final order*, and "did not have the power to accomplish the ultimate purpose of this litigation: to end the marriage." *Id.,* ¶ 18, 922 N.W.2d 801.

Exceptions to the majority view generally flow from state-law specific circumstances. New Mexico, for example, follows a statute mandating that a divorce matter does not fully abate upon the death of a party.[4] In Oklahoma, "the adjudication of any issue in a divorce case is enforceable when pronounced by the court," which need not necessarily be documented and recorded with a signed order—an exception drawn directly from Oklahoma statute. *See Alexander v.*

[4] "[I]f a party to the action dies during the pendency of the action, but prior to the entry of a decree granting dissolution of marriage, separation, annulment or determination of paternity, the proceedings for the determination, division and distribution of marital property rights and debts, distribution of spousal or child support or determination of paternity shall not abate." N.M. Stat. Ann. § 40-4-20 (West).

Alexander, 2015 OK 52, ¶ 14, 357 P.3d 481, 485.[5] Pennsylvania follows statute that was passed "to provide an exception to [the] common law rule" on abatement, and provides that divorce "will not abate upon the death of a party, if the grounds for divorce have been established prior to the death." *Schmitt v. Schmitt*, 318 A.3d 1283, *2 (Pa. Super. Ct. 2024) (referring to 23 Pa. C.S.A. § 3323(d.1)).

No such statutory scheme controls divorce matters in Maine, and as such, this Court should enforce the general norm and apparent status quo that a party's death abates a divorce action if the passing occurs prior to a final judgment.

IV. The *nunc pro tunc* addenda to the final judgment and real estate orders cannot, and do not, validate a judgment that is void *ab initio*.

When the district court issued its final decision, that order was signed, dated, and docketed on July 3, 2025. No previous "final judgment" had terminated the divorce proceeding, and the oral ruling allowed for, for example, unsettled tangible property exchanges that had yet to occur. See APP025-26; see also APP045-47. Seeking to effectuate the July order's application to June 6, 2025, the Court added (on July 3, 2025) that its final order was "*nunc pro tunc* to 6/6/25," with similar addenda added to the real estate orders. APP028-32. However, those addenda cannot

[5] Okla. Stat. Ann. tit. 12, § 696.2 (West) ("A judgment, decree or appealable order, whether interlocutory or final, shall not be enforceable in whole or in part unless or until it is signed by the court and filed; except that the adjudication of any issue shall be enforceable when pronounced by the court in the following actions: divorce…").

validate orders that are invalid from the outset. The Divorce Judgment must be vacated as void.

The recognized use of a *nunc pro tunc* judgment is to issue an order "to correct a clerical error in the record." *See* "nunc pro tunc," Black's Law Dictionary (12th ed. 2024). It is a phrase "typically used by courts to specify that an order entered at a later date should be given effect retroactive to an earlier date—that is, that it should be treated for legal purposes *as if* entered on the earlier date." *Fierro v. Reno*, 217 F.3d 1, 5 (1st Cir. 2000) (citation omitted). Generally, *nunc pro tunc* judgments "are not meant to render judgments today which should have been rendered then but rather should merely effectuate judgments today that actually were rendered then." Brandon Carney, *Till Death Do Us Part-and Then Some: The Effect of A Party's Death During Dissolution*, 25 J. Am. Acad. Matrim. Law. 153, 155 (2012).

Other states reject the practice of using *nunc pro tunc* retroactivity to cause a final divorce order to effectuate earlier than any actual final judgment was rendered. See, e.g., *Johnson* 72 Va. App. 771, 853 S.E.2d 550 (2021) (upholding dismissal of motion for *nunc pro tunc* written order when wife died after oral rulings but before written final judgment was issued by court); *see also Camp v. Camp*, 109 Haw. 469, 469, 128 P.3d 351 (Ct. App. 2006) ("[Husband's] death on October 17, 2003, extinguished the divorce case and the family court's jurisdiction to enter any subsequent [*nunc pro tunc*] orders/ decrees/ judgments, including the February 24,

2004 Divorce Decree."); *see also McGrew v. McGrew*, 184 So. 3d 302, 311 (Miss. Ct. App. 2015) ("A chancellor may not circumvent the general rule that 'a decree rendered against a defendant after his death is void' by entering a judgment *nunc pro tunc*."). A contrary rule invites pernicious mischief: if a court *retains jurisdiction* of a divorce that *was not subject to a final judgment* after one party passes away merely by exercising its discretion to issue a final order *nunc pro tunc*, Maine would be inventing a common law scheme that anomalous and prone to abuse.

The trial court issued its final written orders on July 3, 2025, because, clearly, there had yet to be a final judgment rendered in the case before July 3, 2025. The supplied retroactivity in the July 3, 2025, orders are part of a final judgment that itself occurred after a party died and, therefore, when the district court had no jurisdiction. A judge cannot issue a final order in a case that has been abated by the fact of a party's death. While a *nunc pro tunc* order can correct a mistake on an issued final judgment and bind the parties to the retroactive date, an order *nunc pro tunc* "may not serve to record a fact, such as a divorce, as of a prior date when the fact did not then exist." *See Cornell v. Cornell*, 7 N.Y.2d 164, 167, 164 N.E.2d 395, 397 (1959). That is the *fact* at issue here, as the parties' lack of final judgment prior to July 3, 2025, cannot be changed *nunc pro tunc* to a date upon which there existed no final judgment. If there was no definitional *final judgment* prior to June 2025, it

was Mr. Carter's death—and not the court's final order—that served as the seminal event ending the marriage.

A permissive attitude toward the practice of courts breathing retroactive legitimacy into any order even after the court lost jurisdiction of the case is obviously undesirable. The hypothetical abuses of such a system are easily imagined, and it would stain the legitimacy of Maine courts as an institution if magic words from a dead language gave the courts perpetual jurisdiction over litigants. Happily, there appear to be no plausible "policy tradeoffs" in declining to open that door: if courts simply issue final signed judgments in a timely manner, circumstances such as those that that sparked this appeal are unlikely to be recurring concerns for the judiciary. The preferable course is crystal clear.

V. The court erred in denying Ms. Martin's post-judgment motion for relief under Rule 60(b)(4) by focusing on equity considerations.

Maine Rules of Civil Procedure Rule 60(b) states that, upon motion and upon "such terms as are just," a court may relieve a party from a final judgment, order, or proceeding if the judgment is void. M.R. Civ. P. 60(b). Under Rule 59(e), a Court may "alter or amend" a judgment, a particular authority which "should be read to include 'vacate'; the federal cases have recognized the power of the court to vacate a judgment under Fed. R. Civ. P. 59(e)." 3 Harvey & Merritt, *Maine Civil Practice* § 59:6 (3d ed.); *see also Warren v. Waterville Urb. Renewal Auth.,* 259 A.2d 364 (Me. 1969) (acknowledging that "a motion to vacate and/or modify" is "within the

coverage of Rule 59(e)"). A motion under Rule 59(e) to vacate a judgment should be granted if the movant shows that "it is reasonably clear that prejudicial error has been committed[.]" 3 Harvey & Merritt, *Maine Civil Practice* § 59:6. However, a decision questioned under Rule 60(b)(4) is "either valid or void and thus a motion for relief pursuant to M.R. Civ. P. 60(b)(4) is not subject to the discretion of the court." *Boyer*, 1999 ME 128, ¶ 6, 736 A.2d 273. If the court lacks jurisdiction, the court lacks discretion to rule otherwise.

Ms. Martin filed a post-judgment motion upon receipt of the district court's final judgment, informing the court of its lack of subject matter jurisdiction prior to its issuing a final judgment in the case. The court denied the motion, writing that the question was controlled by "*Boland v. Belair*, 2025 ME 31, ¶ 11," without further analysis. APP060. The entire paragraph cited by the trial court reads as follows:

> We have said that "[a] family matter agreement does not become an order of the court until it is presented to and approved by the court." *Cloutier v. Cloutier*, 2003 ME 4, ¶ 8, 814 A.2d 979. Here that is precisely what happened, and so at the end of the settlement hearing the parties were left with an enforceable court order. Cf. id. ¶ 10 ("When the court ... concludes that there is a basis for setting aside an agreement t*hat has not been incorporated in a court order* . . . it may do so." (emphasis added)).

Id. (emphasis in original). Contrary to the court's denial, the *Boland* decision is not dispositive of the issue raised by Ms. Martin's challenge of the untimely final judgment. The passage referenced by the district court appears, contextually, to apply to circumstances where (a) parties that reached a whole or partial agreement

that was read on the record and (b) the court retained jurisdiction to weigh a motion to set aside that agreement based upon a party's mistake of fact or other reasons. *Id.* at ¶¶ 5-6. The passage cited by the district court in denying Ms. Martin's post-judgment motion obviously leans on *Cloutier v. Cloutier*, 2003 ME 4, ¶¶ 8-10, 814 A.2d 979, in which the Law Court laid out the appropriate equitable considerations a court may assess upon a motion set aside a pretrial agreement between parties. *Id.* A court's considerations are a matter of *discretion* in reopening matters *on equitable* grounds. *Id.*

Although Ms. Martin appreciates the lower court's proffer of an explanation for denying her post-judgment motion, jurisdiction is not subject to the vagaries of equity. *Boyer*, 1999 ME 128, ¶ 6, 736 A.2d 273. The *Boland* or *Cloutier* considerations, as to when a court should exercise discretion in enforcing or setting aside any pretrial agreement on *equitable* grounds, are just not relevant to adjudicate the motion for relief that was filed by Ms. Martin. The district court clearly erred in denying the motion in reference to *Boland*, just as the district court erred in retaining jurisdiction of the case following the passing of Mr. Carter.

The court's decision as to Ms. Martin's post-judgment motion for relief should be reversed; the deceased party's complaint should be dismissed based on principles of abatement; and Ms. Martin should be relieved of the district court's final judgment.

CONCLUSION

This Court should, with respect, reverse and remand the district court's denial of Ms. Martin's post-judgment motion to vacate and instruct the district court to vacate its final judgment; or alternatively, directly vacate the final judgment for want of jurisdiction and order dismissal of the underlying action. Either way, the parties should be subject to an outcome that is consistent with Maine law. As such, the Court should, respectfully, issue an order that appropriately corrects to the lower court's invocation of a *nunc pro tunc* final judgment after the court lost jurisdiction.

Dated: November 5 , 2025

/s Carl Woock
Carl E. Woock, Esq. Bar No. 5657
Attorney for Appellant Ann Martin
STEVE SMITH TRIAL LAWYERS
191 Water Street
Augusta, Maine 04330
(207) 622-3711
info@amiericantrialgroup.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this brief has been served via e-mail upon counsel for the appellee, Cody Mason, Esq., (cmason@rangercopelandfrench.com) on this date.

/s/Carl Woock
Carl Woock, Esq., Bar No. 5657
Attorney for Appellant Ann Martin
STEVE SMITH Trial Lawyers
191 Water Street
Augusta, Maine 04330
Telephone: (207) 622-3711
info@amiericantrialgroup.com