

STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Court Docket No. CUM-26-19

ESTATE OF GLORIA HALL

Jonathan Hall, Individually and as Co-Personal Representative of the Estate of
Harry Hall, Appellant,

v.

Jeffrey Hall, Personal Representative, and Bonnie Hall, Appellees

APPEAL FROM THE CUMBERLAND COUNTY PROBATE COURT

BRIEF OF APPELLANT

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STATEMENT OF THE CASE

This case is about the Cumberland County Probate Court (hereinafter the “Probate Court”) denying the timely claims of an interested party, who incurred costs and expenses on behalf of an estate. The Probate Court disregarded the specific facts and misapplied inapplicable statutes to the claims brought. The Probate Court disregarded fundamental issues of fairness and detrimental reliance in its vacuous order for summary judgment. The Probate Court’s derelict docket management is best embodied in its flawed order for summary judgment.

The Probate Court further compounded its errors by issuing a final order of distribution and closing of the estate despite not fulfilling statutory requirements for closing an estate. The Probate Court failed to apportion taxes as required. The Probate Court has issued decisions in denying claims and closing the estate that are in violation of Maine Law.

STATEMENT OF FACTS

On November 27, 2008, Gloria Hall died in Kennebunk Maine. *App. p. 22.* There were four children to Gloria Hall; Jonathan Hall (hereinafter “Jonathan”), Jeffrey Hall (hereinafter “Jeffrey”), Bonnie Hall (hereinafter “Bonnie”), and Jennifer Hall (hereinafter “Jennifer”). *See Estate of Hall, 2014 ME 10 ¶2, 86 A.2d. 596, 597.* Gloria Hall had been married to Harry Hall. *App. p. 35.* Gloria Hall executed a will in 1993 (hereinafter the “1993 Will”). Gloria Hall executed a will in 2004 (hereinafter the “2004 Will”) that revoked the 1993 Will. *See id. at ¶ 4; 597.* Gloria and Harry Hall primarily lived in Massachusetts during their marriage. *App. p. 84.*

In 2005, Gloria Hall was diagnosed with dementia. *See Estate of Hall ¶¶5, 8A at 598.* In 2007, Gloria Hall and Harry Hall executed a separation agreement (hereinafter the “Separation Agreement”). *See id.*

The Separation Agreement revoked Gloria Hall’s 2004 Will and reinstated the 1993 Will. *See Estate of Hall, 2014 ME ¶¶7, 8, 86 3d. at 598.* Upon Gloria Hall’s death, Jonathan took care to preserve the assets of the estate. *App. p. 128-30.* Those assets included a house in Lexington, Massachusetts (hereinafter the “Lexington Property”). *App. p. 128-130.* Jonathan paid taxes and costs for the Lexington Property. *App. p. 128-130.* Prior to the appointment of a personal representative, Jonathan took steps to preserve the Lexington Property, as well as other estate assets. *App. p. 128-130.*

As stated in the procedural history below, Jeffrey objected to Jonathan's petition for appointment as a personal representative. *App. p. 7*. This dispute caused the probate court to appoint a special administrator for the sale of the Lexington Property. *App. p. 7*. Relying on the representations of the special administrator, Jonathan put in a claim for reimbursement of his payments for costs, expenses, and taxes at the closing of the Lexington Property. *App. p. 129*. He was paid \$21,357 at closing for reimbursement of his payments for costs, expenses, and taxes. *App. p. 205*.

After the sale of the Lexington Property, the parties litigated the claims filed by Jonathan. Jonathan had filed for claims as detailed in the Procedural History. Jonathan's claims were filed individually, and as the personal representative for the Estate of Harry Hall. Jonathan's claims represented expenses paid for either by him, or the Estate of Harry Hall. *App. pp. 8, 12, 13*. The Procedural History speaks to the fact that after Jeffrey was appointed as personal representative, he disallowed the claims. *App. p. 12-13*.

PROCEDURAL HISTORY

On November 27, 2008, Gloria Hall died in Kennebunk Maine. *App. p. 22*. On April 6, 2009, Jonathan and Eastern Bank filed a petition in the York County Probate Court for the purpose of opening an Estate on behalf of Gloria Hall. *App. p. 6*. On or about May 23, 2009, the matter and petition were transferred to Cumberland County Probate Court (hereinafter the "Probate Court"), because

Judge Donna Bailey of the York County Probate Court had a conflict of interest. *App. p. 6.*

On July 20, 2009, Jonathan and Eastern Bank filed a motion for summary judgment seeking an order from the Probate Court that Gloria Hall revoked her 2004 Will and reinstated her 1993 Will, pursuant to a Separation Agreement with Harry Hall¹. *App. p. 7.* Jeffrey objected to the summary judgment motion. *App. p. 7.* On July 14, 2010, the Probate Court entered a summary judgment order, which dismissed Jonathan and Eastern Bank's petition, vacated the Register's declination, and granted Jeffrey summary judgment as the non-moving party. *App. p. 7.* That summary judgment order was appealed, and the appeal was dismissed as interlocutory. *App. p. 7.*

On August 5, 2012, Jonathan, as personal representative for the Estate of Harry Hall, and Eastern Bank filed a claim on the estate for the amount of \$444,396.01 (hereinafter the "first claim"). *App. p. 8.* On August 23, 2012, Jonathan, as personal representative for the Estate of Harry Hall, and Eastern Bank filed a claim on the estate for the amount of \$23,916.87 (hereinafter the "second claim"). *App. p. 8.* On September 19, 2012, Jonathan filed a claim on the estate for the amount of \$45,131.08 (hereinafter the "third claim"); a subsequent claim in the same amount was filed on May 8, 2014. *App. pp. 8, 13.* After Jeffrey was

¹ In 2014, this Court adjudicated the matter Estate of Gloria P. Hall, 2014 ME 10, 86 A.3d 596. The procedural history covering that time span until that adjudication will be of a summary nature so as not to eclipse the procedural history of the issues to be adjudicated in this appeal.

appointed personal representative of the Estate on July 29, 2013, the Probate Court published a notice to creditors. *App. p. 12*. Jeffrey disallowed the 2012 claim. *App. p. 13*. On October 2, 2013, Jonathan filed a petition to resolve disputed claim at the Probate Court. *App. p. 2*. On February 28, 2014, Jonathan, as personal representative for the Estate of Harry Hall, and Eastern Bank filed a claim on the estate for the amount of \$1,056,959.99 (hereinafter the “fourth claim”). *App. p. 12*. On April 10, 2014, Jonathan, as personal representative for the Estate of Harry Hall, and Eastern Bank filed a claim on the estate for the amount of \$1,175,228.23 (hereinafter the “fifth claim”). *App. p. 12*. Jeffrey disallowed the fifth claim on April 16, 2014. *App. p. 13*.

Jeffrey petitioned the Probate Court for the appointment of a special administrator to sell real estate in Lexington ,Massachusetts, preserve the assets of the estate, and facilitate discovery. *App. p. 7*. The Probate Court granted the petition and ordered the appointment of Robert Raftice as special administrator. *App. p. 7*. The Parties litigated the issues concerning claims, the sale of the Lexington Property, and among other issues the appointment of a personal representative. *App. p. 8-16*. The Probate Court issued an order on March 7, 2013, and it was subsequently amended on March 18, 2013. *App. p. 11*. The Amended Order admitted the 2004 Will and appointed Jeffrey personal representative of the Estate of Gloria Hall (hereinafter the “Estate”). *App. p. 11*. A notice of appeal was

filed which resulted in the decision named *Estate of Gloria Hall, 2014 ME 10, 86 A.3d 596*.

Jeffrey filed a motion for summary judgment on January 29, 2018. *App. p. 15*. Jonathan objected to Jeffrey's motion for summary judgment. *App. p. 15*. Over 3 years after the motion for summary judgment was filed and with a new Judge of the Probate Court, the Probate Court issued its order on the summary judgment. *App. p. 13*. The Probate Court dismissed Eastern Bank and Jonathan's claims with the exception of the first claim that it allowed subject to verification for the portions of the claim that pre-date May 19, 2012. *App. p. 157-167*. Jonathan filed a timely motion for reconsideration on May 10, 2021; that motion was not acted upon until December 12, 2025, despite multiple requests from Jonathan. *App. p. 13*. The Probate Court held that the order on summary judgment was interlocutory and subject to appeal. *App. p. 197*.

Hearings for Bonnie Hall's motion for sanctions were held on October 13 and December 6, 2022. *App. p. 19*. Over 9 years after Bonnie Hall filed her amorphous motion for sanctions, the Probate Court issued an order for sanctions against Jonathan for \$6,000. *App. p. 19*. On December 20, 2024, the Probate Court held that Jonathan had an allowed claim of \$6,878.86 and an overpayment of \$14,478.14. *App. p. 204-206*. On May, 22, 2025, Jeffrey petitioned the Probate Court for an order of complete settlement. *App. p. 212*. Jonathan objected to the petition, while Bonnie Hall assented to the petition. *App. pp. 214, 219*. The

Probate Court entered an order on October 15, 2025 that misstated Jonathan's appeal rights and ordered Jeffrey to prepare an order of distribution. *App. p. 256*. In order to preserve all his appeal rights, Jonathan filed a notice of appeal on November 5, 2025². *App. p. 21*. The Probate Court ruled on Jeffrey's petition and issued an order of distribution on December 31, 2025. *App. p. 264*. This timely appeal followed. *App. p. 21*. After the appeal was filed, the Probate Court issued orders weeks after this appeal was docketed. *App. p. 21*.

This appeal is based on the issues presented in Jonathan's petition to resolve disputed claim, which was filed on May 6, 2014 (hereinafter "Jonathan's Petition") and Jeffrey's petition for order of complete settlement filed on May 22, 2022 (hereinafter "Jeffrey's Petition"). Jonathan's Petition included the subsidiary event of a motion for reconsideration filed on May 10, 2021, and not decided until December 12, 2025, after Jonathan preserved the issue on appeal. The notice of appeal for this appeal further preserved the issue that relates back to the summary judgment order, which resolved Jonathan's Petition.

The December 31, 2025 order of final distribution resolved Jeffrey's Petition. While Jonathan objected to Jeffrey's Petition, there was no subsidiary order or pending motion to resolve upon the issuance of the order of final distribution. Jonathan directly appeals the order of final distribution, which has its own subsidiary docket.

² That appeal was dismissed because it was interlocutory.

STATEMENT OF THE ISSUES PRESENTED

- I. The Cumberland County Probate Court Erred in its Decision and Order on October 15, 2025?
- II. The Cumberland County Probate Court Erred when it failed to apportion taxes paid on behalf of the Estate of Gloria Hall?
- III. The Cumberland County Probate Court Erred when it denied Jonathan S. Hall's Motion for Reconsideration?
- IV. The Cumberland County Probate Court Erred when it denied Jonathan S. Hall's Motion for Reconsideration dated May 10, 2021?
- V. The Cumberland County Probate Court Erred when it entered its Order of Distribution dated December 31, 2025?
- VI. The Cumberland County Probate Court Erred in its Order for Summary Judgment dated April 29, 2021?

ARGUMENT

STANDARD OF REVIEW

I. The Cumberland County Probate Court Erred in its Order for Summary Judgment.

The Maine Supreme Judicial Court applies a de novo standard of review for summary judgments. *See Lubar v. Connelly*, 2014 ME 17, ¶ 33, 86 A.3d 642, 649. The Court “reviews the evidence in the summary judgment record in the light most favorable to the non-prevailing party ‘to determine whether the record reveals a genuine issue of material fact on any claim.’” *Id.* (quoting *Lougee Conservancy v. CitiMortgage, Inc.*, 2012 ME 103, ¶ 11, 48 A.3d 774).

A. The Probate Court Ignored Genuine Issues of Material Facts When It Granted Jeffrey Hall’s Motion for Summary Judgment.

“A fact is material ‘if it has the potential to affect the outcome of the suit.’”

Id. (quoting *Deutsche Bank Nat’l Trust Co. v. Raggiani*, 2009 ME 120, ¶ 5, 985 A.2d 1). “When facts, though undisputed, are capable of supporting conflicting yet plausible inferences—inferences that are capable of leading a rational factfinder to different outcomes in a litigated matter depending on which of them the factfinder draws—then the choice between those inferences is not for the court on summary judgment.” *Lougee Conservancy*, 2012 ME 103, ¶ 11, 48 A.3d 774. “A material fact is one having the potential to affect the outcome of the” litigation. *Burdzel v. Sobus*, 2000 ME 84, ¶ 6, 750 A.2d 573, 575. A “genuine issue of material fact exists when a factfinder must choose between competing versions of the truth, even if one party’s version appears more credible or persuasive.” *Miller v. Miller*, 2017 ME 155, ¶ 9, 167 A.3d 1252, 1255 (quoting *Angell v. Hallee*, 2014 ME 72, ¶71, 92 A.3d 1154, 1154).

18-A M.R.S.A. §3-802(a) of the Maine Probate Code allows a personal representative “with the consent of all successors whose interests would be affected, [to]... waive any defense of limitations available to the estate.” 18-A M.R.S.A. §3-802(a).³

³ The events at issue happened while Title 18-A of the Maine Revised Statutes Annotated (old Probate Code) was in effect. The Order for Summary Judgment was entered after Title 18-C went into effect. There has been no meaningful substantive change that will affect the Court’s analysis.

The Cumberland County Probate Court erred when it granted Jeffrey's Motion for Summary Judgment, because there were genuine issues of material fact that precluded a summary judgment for Jeffrey on any claim. The genuine issues of material fact were significant enough to negate matters without factual dispute, thereby not entitling Jeffrey to a judgment as a matter of law on any claim.

The record shows that all parties, including the movant Jeffrey, agreed that Jonathan would be paid \$21,357 out of the sale proceeds of the sale of the Lexington Property, and later, in 2014, when that property was sold, said agreement was implemented and Jonathan was in fact paid said \$21,357 out of the sale proceeds. *App. p. 130*. They preserved and reserved all claims and defenses regarding **further** compensation of and reimbursement of Jonathan. *App. p. 83*. (emphasis supplied). These were disputed facts that the Probate Court ignored when it granted Summary Judgment.

Jeffrey acknowledged the July 2013 agreement and its later 2014 implementation. *App. p. 83*. Jeffrey was not under duress, and he was clearly represented by counsel during that process, which involved the active engagement of the Special Administrator. *App. p. 83*. All parties had notice of and an opportunity to participate in that process. This is another issue of material fact that the Probate Court ignored.

The Probate Court disregarded the law and the facts when it entered summary judgment. Without any authority, the Probate Court refused to give full

faith and credit to the Judgment of the Massachusetts Court; instead relying on the timeliness of a claim as though that were the only event on the docket. *App. p. 157-167.*

B. Jonathan's personal claim was timely because this debt was not due and payable until sale of the Lexington Property.

The Probate Court erred when it ruled that Jonathan's September 19, 2012 claim was untimely. Jonathan knew his mother's estate was illiquid. *App. p. 129.* Having received and reasonably relied on assurances from representatives of her estate (including the Special Administrator) and his siblings that he would be paid at the closing of the sale of the Lexington Property, he continued to labor at, supervise the maintenance of, and pay for the expenses of his family's long-time home. *App. p. 129-130.* Because Jonathan did not expect and would not receive compensation until the sale of this home, his filing of the September 19, 2012, claim was well within the deadline established under *18-A M.R.S.A. §3-803(b)(1) and (2)*. In other words, his claims for reimbursement did not arise until the sale of the house; the sale was a necessary precondition to the Estate's obligation to pay Jonathan. *See 18-A M.R.S.A. §3-803(b)(2).*

The Probate Court's decision creates a dilemma for subsequent administrators of estates. A party that acts and expends funds for the benefit of an estate with the reasonable reliance of reimbursement from the estate upon liquidation is now vulnerable to not being reimbursed, because a trial court refuses to view this dispute as a genuine issue of material fact. The party who seeks to

preserve property of the estate and the estate's value may be reluctant to spend time and/or money when their known and obvious claim can be denied purely on a technicality. This creates a scenario where parties need to file equitable actions, i.e. unjust enrichment and quantum meruit, against the estate to preserve their rights of reimbursement. Certainly, the Probate Code was never intended to produce this bizarre result.

Also, with regard to Jonathan's claim against the Estate of Gloria P. Hall, Jonathan was appointed personal representative and/or special administrator of the Estate. *App. p. 118*. Any labor and/or funds expended by Jonathan pursuant to that appointment and during his rightful term as fiduciary for the Estate were done with the express approval of that fiduciary and therefore constitute a binding contract with the Estate under *18-A M.R.S.A. §3-803(b)(1)*. Jonathan's claim for authorized work was timely presented to the Estate. The Probate Court was wrong as a matter of law on this issue.

Finally, Jonathan also contends that his personal claim against the Estate arises from quasi-contractual principles: that is, for the benefit he reasonably conferred on the Estate of Gloria P. Hall in reasonable reliance on the assurances of the Special Administrator and the other parties, and said claim was timely asserted under *18-A M.R.S.A. §3-803(b)(2)*. That is, his quasi-contractual claims sounding in quantum meruit, quantum valebat, unjust enrichment, detrimental reliance, and promissory estoppel did not arise until sale of the Lexington home.

C. Under the Maine Probate Code, proof of claim litigation, is a civil proceeding, where the Probate Court has concurrent jurisdiction with our Civil Courts. Any statute of limitations defense has been waived.

While Claimants generally bring claims pursuant to the Probate Code in the Probate Courts, they may also institute civil actions against the personal representative in either the District or Superior Courts. *See Maine Probate Procedure, James Mitchell and Philip C. Hunt, at page 4-104.*

Because this is a civil proceeding, Probate Rule 8(b) has adopted and would here apply Rule 8 of the Maine Rules of Civil Procedure. *See Est. of Leavitt, 1999 ME 102, 73 A.2d 348 (Me. 1999), at footnote 2, and Probate Rule 80(c).* A statute of limitations defense is an affirmative defense that must be pleaded in an Answer. *See M.R.Civ.P. 8(c).*⁴ “The statute of limitations is an affirmative defense and the burden of establishing the expiration of the limitations period is on the party asserting it.” *Northeast Harbor Golf Club v. Harris, 1999 ME 38 ¶15, 725 A.2d 1018, 1023.*

About one year and one week following Jonathan’s filing of his Notice of Claim, the personal representative disallowed the claim. *App. p. 13.* Jonathan promptly filed a petition for allowance, upon receipt of permission of the Maine Supreme Judicial Court to do so. *App. p. 13.* Jeffrey’s Answer of November 13, 2013, asserts no affirmative defense. *App. p. 85.* Neither Jennifer nor Bonnie (the

⁴ Rule 8(b) of the Maine Rules of Probate Procedure states, “Rule 8 of the Maine Rules of Civil Procedure governs the procedure in civil proceedings in the Probate Courts.”

other interested parties) pled the affirmative of statute of limitations. *App. p. 85*. Given these facts, the personal representative's statute of limitations defense has been waived.

With regard to the claim against the Estate for \$1,175,228.23 and the petition for allowance of said claim filed by the Estate of Harry A. Hall, III, on May 6, 2014, the personal representative never filed an answer to said petition. *App. p. 85*. Therefore, the personal representative has waived whatever statute of limitations defense the personal representative may have had to said claim. M.R.Civ.P. 8(c).

If any statute of limitations defense has not already been waived, then the statute was at least tolled for a period of time. The Estate of Harry A. Hall, III filed its notice of appeal to the Law Court on or about March 25, 2013. *App. p. 11*. The appeal was docketed with the Law Court on March 27. *App. p. 11*. Jeffrey was appointed personal representative on or about July 29, 2013 and subsequently sought to disallow the four claims filed against the estate. *App. p. 12*. The Law Court issued its decision on January 28, 2014, and the matter was remanded to this Court sometime thereafter.

D. Proofs of Claim Regarding Estate and Related Taxes.

A substantial portion of the so-called reimbursement claim filed on or about April 5, 2012, flows from the payment by the Estate of Harry A. Hall, III, of estate and related taxes owed by the Estate of Gloria P. Hall. *App. p. 85-86*. Bonnie,

Jeffrey, Jonathan, and the Estate of Harry A. Hall, discussed this matter at considerable length with Kevin Willis (hereinafter “Willis”), an associate at the Boston law firm of Ropes & Gray, counsel to Eastern Bank and Mr. Hall’s estate. *App. p. 85-86.* Willis explained that because the Hall children would not pay these tax obligations, and because Harry Hall’s estate may have been viewed by taxing authorities as a person or a party in possession, and because the failure to pay such levies may have resulted in very substantial surcharges, interest, and penalties, Harry Hall’s estate did pay these obligations. *App. p. 85-86.* All siblings were notified of the payments being made by Harry Hall’s estate. *App. p. 86.*

1. This “claim” was properly presented by notice rather than by filing.

The August 19, 2009, letter from Willis was a proper and sufficient written notice of a claim under *18-A M.R.S.A. §3-804(1)*, as an alternative to the filing of a proof of claim with the Registry of Probate. Further, no magical incantation is here required. As James Mitchell and Philip C. Hunt set forth in their Maine Probate Procedure, “The claimant may use a letter or other format to make the claim directly to the personal representative.” (at page 4-91)

2. This is not a “claim.”

The allocation and apportionment of liability for estate and related taxes are not claims. *18-A M.R.S.A. §1-201*, which contains definitions for the Probate Code, explicitly excludes estate or inheritance taxes from the concept or definition

of claims: the term [claims] does not include estate or inheritance taxes, or demands or disputes regarding title of the decedent or protected person.

E. There is an entirely separate probate process for resolution of tax disputes and the allocation of fiscal burdens among distributees.

The process for resolution of tax matters is clearly delineated at *18-A M.R.S.A. §3-916* as part of the distribution of a decedent's estate. Because of the involvement of Massachusetts estate/inheritance taxes, particular interest to subsection 3-916(h)'s directive that "the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate **in the other state** is prima facie correct." *18-A M.R.S.A. §3-916 (h) [emphasis added]*. Under the Probate Code, taxes have always been treated differently from claims. *See 18-A M.R.S.A. §3-805 and 18-C M.R.S.A. §3-805*. Under the applicable statute, when an estate has insufficient assets to pay all claimants in full, payments shall be made as follows:

1. costs and expenses of administration;
2. reasonable funeral expenses;
3. debts and taxes with **preference under federal law**;
4. medicaid benefits recoverable under Title 22, section 14, subsection 2-I and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent;
5. debts and taxes with preference under other laws of this State; and
6. all other claims.

See 18-A M.R.S.A. §3-805. [Emphasis added]. Despite it making a great deal of sense for the apportionment of such taxes to be treated entirely separately from the

normal claims process, the Probate Court refused in its summary judgment decision. The setting of taxes and the liability, therefore, may not be determined for months, perhaps even years, after a decedent's death and long after the initiation of the probate process. The amounts to be distributed and the specific distributees (and whether, inter alia, those distributees disclaim part or all of their interests) all must be considered in the determination of the amount of tax and liability, therefore. So, all of these tax issues relate, as the title of Article 9 so indicates, to the distribution of the assets of the estate. Further, as set forth in subsections (b), (d), and (g) of Section 916, the right of recovery here is not against the estate, but rather its distributees. *See 18-A M.R.S.A. §3-916(b)(d)(g).*

F. Federal and State tax levies are exempt from this probate process.

For the federal taxes claimed against the Estate of Gloria P. Hall, Federal law controls, and State statutes of limitations, including *18-A M.R.S.A. §3-801*, et seq., are subordinate to Federal law, where there is and cannot be any adverse statute of limitations. The Federal government is immune to and exempt from all State statutes of limitations. *United States v. Summerlin, 310 U.S. 414 (1940).* Only the Federal government can limit the time for its determination and enforcement of its taxes. The probate claims process simply does not “apply to claims of the federal government.” *See In re Morse's Estate. 137 Me. 302, 91 1.2d 247 (1941).*

Similarly, Maine's and other states' claims are immune to and exempt from the Probate Code's statutes of limitations when those states act in their public capacity: e.g., in the imposition and collection of taxes. *See, inter alia, KHK Associates v. Department of Human Services*, 632 A.2d 138, 140 (Me. 1993). Here, verily, the ancient principle of common law applies: "*Nullus tempus occurit Regi* [No time runs against the King]."

G. The controversy over estate tax obligations remains a tax dispute and has not been transmogrified by payment or contribution by the Estate of Harry A. Hall, III.

The Probate Court held any dispute over who ultimately should be held liable for them has been transformed from a tax dispute to a reimbursement dispute. In stark contrast to that argument is precedent of this Court directly on point in *Elizabeth Ostergaard v. Estate of John J. Mastropasqua*, Docket Number 2006-1220, the Cumberland County Probate Court explicitly rejected a similar defense proffered for the Estate. Ms. Ostergaard had paid her late brother-in-law's funeral bills and sought reimbursement. *See id.* The Estate objected not to the debt or its amount, but to its classification under §3-805(a)(2) as a Class 2 funeral expense rather than as a subordinate claim under §3-805 (a)(6). The Probate Court ruled that the fact that a party paid a funeral bill does not alter the nature of that debt: it remains a funeral bill. *See id.* The same logic applies here.

The same primary reason that tax obligations are not "claims" and are therefore exempt from the Code's claims process applies to the derivative claims

of those who pay those obligations for the estate: resolution of these matters may go on for years and may be resolved only at time of final distribution. One cannot be expected to pay a bill whose amount and obligors have not been determined.

As the party in possession of the Lexington home, the Estate of Harry A. Hall was obligated to do so. *See, inter alia, Internal Revenue Service Code Sections 2002 and 2203, as well as Massachusetts G.L. Chapter 65C, Sections 2, 4, and 6.* This only proves the previous point that the Court's summary judgment order creates an unreasonable burden on any party that expends funds to preserve estate assets.

Finally, the law encourages the prompt and proper payment of taxes and other public debts. The Probate Court's decision will discourage any such payments. By acting as it did, the Estate of Harry A. Hall timely paid a public tax debt and saved this Estate large late payment penalties and interest charges. So, just as Judge Mazziotti preserved the priority of the funeral claim in *Mastropasqua*, this obligation should be viewed as a tax debt. The Probate Court clearly erred in its summary judgment by its misclassification of a tax debt.

H. Presentation and prosecution of claims arising from breach of the Separation Agreement and the Massachusetts Probate Court decree enforcing the same were timely, further, they are exempt from this process.

The definition of claims under *18-A M.R.S.A. §1-201(4)*: claims “does not include estate or inheritance taxes or demands or disputes regarding title of a

decedent or protected person to specific assets alleged to be included in the estate.”

18-A M.R.S.A. §1-201(4).

Brickley v. Leonard, 149 A. 833 (Me. 1930) is directly on point. In *Brickley*, a case seemingly out of a law school textbook on contract, the plaintiff, a niece of the decedent’s wife, came to Portland from St. John, New Brunswick, upon the decedent’s oral promise that he would leave his home and its contents on Roberts Street to her if she relocated and cared for him. *See Brickley*, 149 A. at 834-835. She did so and brought her sisters and brother as well. *See id.* at 835. The trial court commended plaintiff and her siblings on their exemplary service to the decedent. *See id.* Both the trial court and the Law Court, sitting in equity, found detrimental reliance and enforced the oral agreement. *See id.* at 835-836. A trust was created based on the theory “to construe the agreement as binding the property of the testator or intestate so as to fasten or impress a trust on it in favor of a promisee.” *Id.* at 836.

The defendant did raise the plaintiff’s failure to present and to file her claims pursuant to then probate practice. *See Brickley*, 149 A. at 836. The Law Court swept aside this argument:

The answer to this contention is that this is not a claim against the estate of Fenwick T. Leonard, but a claim against and for certain property, real and personal, which, impressed with a trust in favor of the plaintiff, does not and cannot be said to form any part of the estate of the deceased.

Brickley 149 A. at 836. For a far more recent and virtually identical holding, see *Estate of Abraham Shapiro*, 1999 ME 25, 723 A.2d. 886. (The Court’s dismissal of a title dispute was in error, because the dispute was not a “claim” under §§3-803 and 3-804). Additionally, *Shapiro* also stands for the doctrine that when a dispute is not a claim, the claims deadlines do not apply and cannot be the basis for dismissing a dispute. See *Shapiro*, 1999 ME at ¶17, 723 A.2d at 890.

In the case at bar, relying upon the settlement agreement and companion Probate Court decree of 2007, the decedent’s husband conveyed the marital home at Lexington to this decedent. *App. p.* 82-83. While *Brickley* is an old precedent, it is still good law. The Probate Court erred when it disregarded the *Brickley* precedent. The Probate Court creates a scenario where parties are unable to rely on applicable precedent. This scenario causes parties to not be able to rely on representations from other parties with an interest in the estate while also removing any reliable judicial recourse—despite applicable case law—for the detrimental reliance damages incurred through the broken promises. This was a fundamental error by the Probate Court. That error requires that this matter be remanded.

1. These claims have been punctually brought.

A priori, any discussion regarding breach of the Agreement and the corresponding Massachusetts decree turns on when, pursuant to 18-A M.R.S.A. §3-803(b)(2), the claims arose. It is appellant’s view, we cannot be logically or reasonably discussing §3-803) (a) because Mrs. Hall had until the moment of her

death to comply with the terms and provisions of the Separation Agreement and decree; that is, by simply revoking the 2004 Will. Thereafter, the personal representative of her estate could have, but did not, honor the terms of the 2007 Agreement.

In contractual actions, a claim arises upon breach; as for a decree, the cause of action arises similarly upon breach. The breach occurred when the personal representative refused to honor both. Jeffrey was not appointed until July 23, 2013. *App. p. 11-12*. The proof of claim relating to breach of the Separation Agreement and breach of the Probate Court decree was filed in June of 2013 (and re-filed on or about February 28, 2014); it was “super-timely” in that it was filed before Jeffrey willfully breached the Agreement and decree. *App. p. 90-91*. Had Jonathan’s appointment continued, he would have honored the Agreement and decree, and there would not have been any breach or resultant claim.

There may be a second, plausible date or event marking the commencement of this claim or cause of action: the Law Court’s final decision of January 28, 2014. *See Estate of Hall, 2014 ME 10, 86 A.3d 596*. This decision was, in essence, a condition precedent to the assertion of this claim in that there would be no cause of action had the Law Court recognized the 1993 Will. Jonathan and his father’s estate had no claim until the courts refused to enforce the 1993 Will. Until then, their damages were nonexistent or merely speculative.

Our sister state, New Hampshire, was the forum of recent litigation instructive on this matter, although the First Circuit ultimately ruled against the plaintiff/claimant. *In Greenwood v. New Hampshire Public Utilities Commission*, 527 F.3d 8 (1st Cir. 2008), the owner of a small renewable hydroelectricity producing company waited 17 years to bring a federal preemption challenge to a state rate order. His challenge was deemed tardy. *See id. at 12*. The Public Utilities Commission had revised a rate order that was favorable to the plaintiff. *See id. at 11*. The new order terminated the last 10 years of a 30-year contract. *See id.*

The three-year statute of limitations, the Court ruled, began to run not when the modified contract expired, but at the time the PUC made its decision, which occurred three years into the contract. *See Greenwood 527 F.3d at 14-15*. On that earlier date, the owner both knew that he had suffered a loss in anticipated stream of income and was placed on notice that the resale value of the power stations had been reduced. *See id. at 15*. The Court held:

Greenwood's claim accrued in 1998 when the PUC turned away Greenwood's challenge to its revision of its 1995 order. Greenwood both knew of his injury in 1998 and, in his submissions to the district court, acknowledged that he had suffered two concrete harms in 1988: the cut in the anticipated stream of income for the last decade of the rate order and the reduction in the resale values of the power stations.

Id. at 14. Similarly, the Estate of Harry A. Hall, III did not know of its loss and its damages until the Law Court's final decision in January of 2014.

2. The claim of \$1,056,959.99, filed on or about February 28, 2014, was never disallowed and must therefore be deemed allowed/accepted.

This claim, filed on or about February 28, 2014, was never disallowed.

Therefore, it must be deemed allowed and accepted, thereby voiding any objection by the personal representative, whether by motion or at trial.

3. These claims are independently enforceable and must be enforced by dint of Federal (superior) law.

It is critical to remember that the Massachusetts divorce litigation resulted in not only a Separation Agreement, but also a Massachusetts Probate Court decree that is enforceable by its own terms and independently of the Settlement Agreement. *App. p. 90-91*. That final foreign judgment was entitled to full faith and credit by the Probate Court. The Court disregarded the full faith and credit clause of the constitution, thereby creating an entirely new and fourth exception to the “full faith and credit” doctrine to support its conclusion. *App. p. 157-167*. The Maine Supreme Judicial Court, on appeal of this matter, did not reach this issue. *See Estate of Hall, 2014 ME 10, 86 A.3d 596*. The Probate Court committed reversible error when it issued its order of summary judgment that fails to follow the constitutional mandate.

Article 4, Section 1 of the United States Constitution mandates that foreign judgments be granted full faith and credit. *U.S. CONST. Art. IV, §1*. Appellants properly registered or “domesticated” the Massachusetts decree pursuant to both

Federal (28 U.S.C. §1768) and Maine (inter alia, *41 M.R.S.A. Sections 8001, et seq.*, the *Uniform Enforcement of Foreign Judgments Act*) law. Not only do these statutes constitute an independent basis for enforcement of the Massachusetts decree, but should there be a conflict between Federal law and Maine law, then Federal law has primacy/superiority.

Massachusetts jurisprudence determined that several cases, most significantly, *Nile v. Nile*, 432 Mass 390 (2000), confirmed and enforced separation agreements like that drafted for the Halls, including where one party was represented by a guardian or other fiduciary.

Nile and other Massachusetts cases demonstrates the Probate Court's error in its construction of Massachusetts law. Those same cases support the proposition that the Middlesex County Probate Court's decree of September/December 2007 is entitled to the full faith and credit of this Court and the courts of the State of Maine and that the same would be enforceable in the civil courts of this state wholly independently of the probate claims process set forth at Sections 3-801. et seq. Civil judgments, unless satisfied or discharged by bankruptcy, are always enforceable. *Am. Jur., 2d, Judgments, at Section 14*. "The passage of time, however great, generally does not affect the validity of a judgment and cannot render void a valid judgment."

I. There is precedent for substituting another statute of limitation for the Sections 3-801, et seq. regimen.

In *Langsdorf v. Burthead*, Kennebec County Superior Court, Docket No. CV-09-151, the Court applied the wrongful death statute's two-year statute of limitation, not the probate court's four-month rule. Foreclosure of the claim "would be a gain to the estate of the defendant"... inconsistent with the statutory scheme requiring liberal construction and disfavoring gains resulting from homicide." *Langsdorf v. Burthead, KCSCt, Docket No. CV-09-151 p. 5*. Similarly, why should Mrs. Hall's estate benefit from her breach of a contract and an otherwise valid Massachusetts decree? The Full Faith and Credit clause, inter alia, would command that there be no limitation on the time available to Mr. Hall's estate for prosecution of this claim.

1. The Estate of Harry A. Hall, III's motion for summary judgment punctually and properly presented this breach of contract claim.

On or about July 20, 2009, the Estate of Harry A. Hall, III, through its attorney, Dana Prescott, filed a motion for summary judgment arguing, inter alia, that the 2007 Settlement Agreement should be affirmed by this Court and that, therefore, the 2004 Will be deemed invalid. Jeffrey and all other devisees and heirs of the decedent were promptly notified of his filing. They acknowledged receipt of this claim by responding to the motion. A claim may be properly presented by any writing directed to the personal representative, and this claim was

presented four years before Jeffrey breached the contract, it was timely. *App. p. 90*. Since the claim was formally presented to both this Court and to all opposing parties, the otherwise dual and successive processes of initial (informal) presentation and later formal petition were conflated, by agreement and/or waiver of all parties, into one proceeding.

Rule 3B of the Maine Rules of Appellate Procedure prohibits trial court action “pending disposition of the appeal by the Law Court.” The Probate Court appointed Jeffrey personal representative while this matter was on appeal. Any statute of limitations, if tolled during that appeal, would not begin to run until, at the earliest, January 28 of 2014. Mr. Hall’s Estate’s petition for allowance dated May 6, 2014, was in fact timely because it was filed within four months of January 28, 2014. *See Estate of Hall, 2014 ME 10, 86 A.3d 596*.

Because this is a civil proceeding and one that could be brought in the District or Superior Courts, the general, civil provisions regarding statutes of limitations adhere, including tolling provisions. *14 M.R.S.A. §866* suspends or tolls the running of all applicable statutes of limitations while the movant has been and remains out of the state. In the case at bar, the personal representative resides and has resided for decades in Tokyo and has made very, very rare appearances here in Maine. Upholding the Probate Court’s order of summary judgment renders *14 M.R.S.A. §866* meaningless.

J. Any statute of limitations defense should be rarely allowed.

As Justice Mead reaffirmed in the Estate of Gray, “We strictly construe statutes of limitation.” *Estate of Gray*, 2013 ME 29 ¶7, 61 A.3d 747, 749 . The statute of limitations defense is an affirmative defense that, in general, will be narrowly construed and infrequently applied. *See id.* All of our rules are designed to and should effect both efficient and substantive justice.

Any analysis of *Gray* should begin with an overview of the claims process in probate. In general, it is expected that the personal representative will have claims before him before deciding which of those claims to pay, which to disallow, and what remains for distribution to the heirs and/or devisees. If no personal representative has been appointed, then any delay in the presentation of claims is meaningless and insignificant because no claim will be paid and no distribution will be made, because generally speaking, only the personal representative can pay the claims and make distributions. Therefore, it is entirely consistent and reasonable for the framers of the Code to allow for a waiver of the strict time limits on presentation of claims where no personal representative has been appointed.

See, inter alia, 18-A M.R.S.A. §3-104.⁵

⁵ Given this framework, *Gray* may well have come as a surprise to the Probate Court. When Attorney David Turesky became involved in this matter in the spring of 2012, he inquired of the staff of this Probate Court about the propriety of filing a claim where no personal representative had been appointed and no notice to creditors had been published. *App. p. 97*. Jeff Kimball advised Attorney Turesky simply not to bother with the filing of any claim until a personal representative was appointed and until notice was published. *App. p. 97*.

In *Gray* at footnote 2, Justice Mead referred to Section 3-104 of the Probate Code for the proposition that “no proceeding to enforce a claim against the estate may be commenced before the appointment of a personal representative.” *Estate of Gray*, 2013 ME 29, 61 A.3d 747, n.2 (quoting *Estate of Kruzynski*, 2000 ME 17, ¶6, 744 A.2d 1054, 1056). Despite this reliance on *Kruzynski* in the immediately preceding sentence (for the proposition that “claims cannot be **presented** to an estate until there is a personal representative”), a distinction is drawn between presentation of a claim. *Kruzynski*, 2000 ME at ¶6, 744 A.2d at 1056. *Kruzynski* conflates the two exemptions/releases.

In *Kruzynski*, a creditor filed to probate an estate that otherwise went unprobated. Her failing was that she filed more than three years after the decedent's death, a violation of §3-108(a). Significantly, Justice Calkins recognizes the importance of having a personal representative before the presentation of any claim. While she, too, ignores Section 3-802(c), she fully appreciates the claims process:

Neither Section 3-803(a) limiting the time within which times must be presented [*noto bene* that she is expressly discussing the presentation of claims by this statutory reference, not the commencement of a formal petition], nor Section 3-803(c)(2), the liability insurance exception, are applicable in this case because this application would be premature. Claims cannot be presented to an estate until there is a personal representative. [emphasis added] 18-A M.R.S.A., §3-104 (requiring appointment to sue an estate) and 18-A M.R.S.A. §805 (1998) (setting forth the Procedures to present a claim to the personal representative). No personal representative was ever designated for

Kruzynski's estate. Until the personal representative is appointed, the claim cannot be presented to the estate.

In *Gray*, the Law Court erred from a path so clearly demarcated by Justice Calkins 14 years earlier. While Judge Calkins held that in such cases, no claim can be presented, Justice Mead concluded that claims must be presented even without a personal representative. We favor the Calkins' rule.

First, this controversy is all about how claims are presented under §3-804. The equivalence of the mailing or the filing of a proof of claim and the commencement of a formal petition is established by statute: “For purposes of any statute of limitations, the presentation of a claim pursuant to Section 3-804 is equivalent to commencement of a proceeding on the claim.” *18-A M.R.S.A* §3-802(c).

This equivalence, of course, makes practical sense. As the personal representative in *Gray*, Attorney Joel A. Dearborn insightfully observed, “It is important to note at the outset that until the Personal Representative of the Estate was appointed...there was no appointed person to serve the proof of claim upon.” He, too, failed to cite §3-104 and §3-802(c). To be sure, the appellant would not want to call attention to these provisions and-perhaps wisely, for his self-interest, did not.

The *Gray* Court wholly ignored two critical rubrics of statutory construction. First, statutes are to be construed so that they are meaningful: he rendered §3-104 meaningless. Second, given that §3-104 is far more specific than the general

claims provisions of §3-804, it is entitled to enforceability. The more specific trumps the more general.

1. A careful textual reading of statutes and rules also compels the conclusion that Gray was wrongly decided.

In our view, the term “proceeding,” as used in §3-104, includes the informal presentation of a claim. The term “proceeding” is not defined in the Code at §1-201 except to say that a “proceeding includes any civil action in any court of competent jurisdiction.” It does not say what a “proceeding” is not. So, we turn to Probate Rule 83(4): “The term ‘proceeding’ means a course of procedure invoking...both formal and informal processes.” So, Section 3-104, in invoking or using the term “proceeding,” waives the requirements of both presentation of a claim (“informal process”) and the filing of a formal petition (“formal process”) until the appointment of a personal representative.

2. Gray does not reach claims initially presented by notice other than filing.

Finally, with regard to *Gray*, it is important to note its limits. Ms. Tasker originally presented her claim by filing it with the Probate Court. The Law Court’s opinion does not mention whether she ever sought to notify her brother (the only other devisee) and any other interested persons of her claim by delivering or by mailing a written statement of claim to him, her, or them, as an alternative to filing. This important evidentiary issue has been explicitly preserved as set forth above

for Jonathan's personal claim and for Mr. Hall's Estate's claims. The argument was extended to all other claims.

II. The Court Erred when it Failed to Rule on Jonathon Hall's Motion for Reconsideration.

Within the time provided by the Rules of Court, Jonathan filed a motion for reconsideration of the order of summary judgment on May 10, 2021. *App. p. 16*. By not ruling on the May 10, 2021, Motion for Reconsideration, the Probate Court left a vacant spot on the docket that preserved Jonathan's right to appeal the summary judgment order. The issues within the Motion for Reconsideration required an explicit denial because of the seriousness of the substantive issues therein. It had been argued that the Motion for Reconsideration was "implicitly" denied. First, there is no docket entry that demonstrates an implicit denial. Second, appeals may only be based on the legal issue before the Court. An implicit denial does not identify legal issues for the appellate court. Finally, all parties' rights are compromised when a pending motion is unresolved.

The Motion to Reconsider was finally ruled upon by the Probate Court on December 12, 2025. *App. p. 266*. That issue of the Motion to Reconsider was preserved when Jonathan filed a timely and proper appeal on November 5, 2025. When this Court found the appeal to be interlocutory, Jonathan timely and properly appealed the actual denial of the May 10, 2021 Motion for Reconsideration.

III. The Probate Court Erred in its Decision and Order Dated October 15, 2025.

The standard of review for Probate Court orders is *de novo* for the application of law to the facts. *See Estate of Giguere, 2024 ME 41, ¶15, 315 A.3d 737, 741.*

A. Jonathan Hall has Standing.

Jonathan has standing to challenge the Petition and all matter in this matter. Under *18-C M.R.S.A. §3-720* it is clear he has standing. The statute provides that a personal representative nominated in another will has the standing to contest other wills that may supersede the will naming personal representative nominee. *See 18-C M.R.S.A. §3-720 cmt.* Jonathan was named as a possible nominee in Gloria Hall's 1993 Will, therefore he has standing to contest issues in this matter. Moreover, Jonathan has standing as an interested party and claimant.

The Probate Court incorrectly stated that Jonathan's deadline to appeal the order of summary judgment was 21 days after March 21, 2025. *App. p. 256.* This was incorrect, because Jonathan's May 10 Motion for Reconsideration was still pending. The December 12, 2025 order by the Probate Court confirms that Jonathan's May 10 Motion for Reconsideration had not yet been decided. Therefore, Jonathan had preserved his right to appeal the summary judgment order.

IV. The Probate Court Erred when it Failed to Apportion Taxes Paid on Behalf of the Estate of Gloria Hall.

Under the Maine Probate Code, an estate must apportion the estate taxes before the estate is closed. *See 18-C M.R.S.A. §3-916 et seq.* The estate may apportion the estate taxes within the body of the will. *See 18-C M.R.S.A. §3-916(3).* If the will does not dictate the apportionment of estate taxes, then a statutory apportionment is applied except in certain circumstances. *See 18-C M.R.S.A. §3-916(4).* Apportionable estate means the value of the gross estate as finally determined for purposes of the estate tax to be apportioned reduced by any claim or expense allowable as a deduction for purposes of the tax. *See 18-C M.R.S.A. §3-916(2)(A)(1).* “A fiduciary responsible for payment of an estate tax may collect from any person the tax apportioned to and the tax required to be advanced by the person.” *18-C M.R.S.A. §3-916(9)(A).* If the fiduciary is not paid by the responsible person, then the fiduciary may collect from any person with an interest in the apportionable estate and any person having an interest in the gross estate. *See 18-C M.R.S.A. §3-916(9)(B)(1-3).*

The Estate of Harry Hall is a fiduciary of the Estate⁶. The Probate Court ruled Willis’ letter dated April 19, 2009, as inadequate to state a claim. The Court’s decision does not change the Estate’s obligations for taxes. The amounts paid by any party for taxes on behalf of the Estate are still entitled to

⁶ The stand-alone Estate references the Estate of Gloria Hall.

reimbursement, because like funeral expenses, taxes are still taxes even when paid by a family member. This was the case in *Re: John J. Mastropasqua, Docket Number 2006-1220*, just as it is in this case. The Probate Court was unable to close the Estate with this outstanding tax issue. If the Estate claims the tax payment as a deduction, then the Estate of Harry Hall must be paid back for the taxes it paid on behalf of the Estate. Otherwise, the deduction would be fraudulent.

The doctrine of not transmogrifying a claim for taxes owed into a lower third-party claim is well established in Maine law and throughout the country. *See Matter of Estate of Salas, 734 P.2d 250, 252 (N.M. 1987)* (claim for funeral and medical expenses accorded priority as valid claims against the estate). The taxes paid by the Estate of Harry Hall do not transmogrify the tax due into a deniable claim.

The Estate of Harry Hall is a subrogee of Federal and State taxing authorities. A party who paid the taxes owed by an estate takes on the status of a subrogee of the taxing authorities paid by that party. *See Bragdon v. Worthley, 153 A.2d 627, 632 (Me. 1959)*. The party “who has paid or is to pay the tax out of the true estate should have the right of subrogation to the position of the sovereign which has received its tax.” *Id.* By virtue of the payment of the taxes for the Estate of Gloria Hall, the Estate of Harry Hall was functionally assigned the position of the sovereign.

The Estate of Harry Hall is still owed the amounts it spent on taxes on behalf of the Estate. Disregarding the claim as a standard third-party claim flies in the face of the doctrine established in *Mastropasqua*. Being the beneficiary of a third party's payment of taxes does not change the fact that the Estate owed the taxes and was liable for payment of those taxes. Therefore, the Probate Court was mandated by statute to order the Estate to pay the tax to the Estate of Harry Hall, because the Estate is required to pay its taxes. Payment to the Estate of Harry Hall is simply the Estate paying its taxes.

V. The Court Erred when it Failed to Rule on Jonathon Hall's Motion for Reconsideration.

By not ruling on the May 10, 2021, Motion for Reconsideration, the Court leaves a vacant spot on the docket. The issues within the Motion for Reconsideration need an explicit denial because of the seriousness of the substantive issues therein. It has been argued that the Motion for Reconsideration was "implicitly" denied. First, there is no docket entry that demonstrates an implicit denial. Second, appeals may only be based on the legal issue before the Court. An implicit denial does not identify legal issues for the appellate court. Finally, all parties' rights are compromised when a pending motion is unresolved.

The Court must determine the apportion of the estate tax before closing the estate. The apportionment has not happened; therefore, the estate is not eligible to be closed. Moreover, estate and tax litigation are not claims litigation. These

issues are still ripe for the Court. The Court's Decision and Order does not change this fact.

The final judgment rule prevents a party from appealing a trial court's decision "before a final judgment has been rendered." *Fiber Materials Inc. v. Subilla*, 974 A.2d 918, 924; 2009 ME 71 ¶12. "The final judgment rule prevents piecemeal litigation, and helps curtail interruption, delay, duplication and harassment; it minimizes interference with the trial process; it serves the goal of judicial economy; and it saves the appellate court from deciding issues which may ultimately be mooted, thus not only leaving a crisper, more comprehensible record for review in the end but also in many cases avoiding an appeal altogether.'" *Id.* (quoting *Griswold v. Town of Denmark*, 2007 ME 93 ¶16; 927 A.2d 410, 417. There are exceptions to the final judgment rule, such as the death knell exception, the collateral order exception and the judicial economy exception. *See id.* at ¶13. None of these exceptions apply to the case at bar.

VI. The Probate Court Erred when it Entered the Order of Distribution.

A. The Estate was not Ripe for Closure.

The Maine Probate Code provides, "(e)ach proceeding before the court or register is independent of any other proceeding involving the same estate." 18-C M.R.S.A. §3-107(1). The court may not close an estate "until the time for presenting claims that arose prior to the death of the decedent has expired." 18-C M.R.S.A. §3-1001(1). At this point, the claim litigation has not been fully

adjudicated by the trial court. Until the claim litigation has concluded and appeals have been exhausted, this Estate is not eligible for closure.

Pursuant to *18-C M.R.S.A. §3-916*, apportionment of estate taxes must happen before the estate is closed. Apportionment of the estate happens at the accounting phase of the administration. Estate and Inheritance tax litigation are not claims litigation; the Probate Code is clear on this. The parties must have an opportunity to review, and possibly object to, an accounting and/or inventory. This process will likely determine the value of the estate. Therefore, it is essential that this process happen.

1. Issues of Claims and Estate Tax Require Adjudication.

The Probate Court failed to address the issues of apportionment of Estate taxes. There is no documented apportionment of taxes as required under *18-C M.R.S.A. §3-916*. If a will “explicitly and unambiguously” apportions the Estate tax, then the tax must be apportioned accordingly. *18-C M.R.S.A. §3-916(3)(A)(1)*. If the will does not apportion payment of the Estate tax, then the Estate tax must be apportioned in accordance with any revocable trust, where the decedent is the settlor and the provision is explicit and unambiguous. *See 18-C M.R.S.A. §3-916(3)(A)(2)*. When no instrument apportions the Estate taxes, then the statutory apportionment of Estate tax applies. *See 18-C M.R.S.A. §3-916(4)*. A person may be entitled to reimbursement for taxes paid on behalf of the Estate. *See 18-C M.R.S.A. §3-916(10)*. The person who pays the tax maintains priority in distribution. *See 18-C M.R.S.A. §3-805(1)*.

The personal representative has not taken the required steps under *18-C M.R.S.A. §3-916* to address Estate taxes. Under the Probate Code, the apportionment of taxes must occur. The proper procedural step would be to file a petition to apportion Estate taxes. No distribution may occur until the tax issues are adjudicated. The Estate may not be closed when the issue of apportionment of taxes is still open.

The Probate Court failed to find that the ordered attorneys' fees were for the benefit of the Estate. According to the 2004 Will, Jeffrey and Bonnie were nominated to be personal representatives for the Estate. The Court must examine the actions of the personal representative and nominee to determine whether those actions justify the Estate's paying the expenses and reasonable attorney's fees to Jeffrey and Bonnie. A personal representative or person nominated to be a personal representative is not entitled to reimbursement or disbursement when such person defends or prosecutes any proceeding in bad faith. *See 18-C M.R.S.A. §3-720*. "Litigation prosecuted by a personal representative for the primary purpose of enhancing his prospects for compensation would not be in good faith."⁷ *18-C M.R.S.A. §3-720 cmt.*

Maine law is clear that any actions taken by the personal representative or nominee is only entitled to disbursements, expenses, or reasonable attorney's fees if pursued in good faith and for the benefit of the Estate. The efforts of the

⁷ The scope of the statute is not limited solely to personal representatives. *See 18-C M.R.S.A. §3-720*. Any reference to personal representative includes persons to be nominated to be a personal representative as stated in the statute. *See 18-C M.R.S.A. §3-720*.

nominee must be for the benefit of the Estate, not personal gain. The efforts and expenses must be outlaid in good faith. The attorney fees must be reasonable.

Finally, a litigant cannot recover his/her attorney fees if he/she loses a will contest over testamentary capacity and/or undue influence. *See 18-C M.R.S.A. §1-601.*

In the case at bar, Bonnie and Jeffrey must prove that their expenses and attorney fees were pursued for the benefit of the Estate and not for personal gain. Bonnie and Jeffrey must prove the expenses and attorney fees incurred were the result of good faith prosecution and/or defense.⁸ That has yet to be proven.

CONCLUSION

For the reasons stated above, this court must remand this matter back to the Probate Court to address the issues as outlined in this Appellant's Brief.

Dated: May 28, 2026

Respectfully submitted,

/s/ Benjamin P. Campo Jr.

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⁸ For example, the expenses and fees incurred for all work associated with Bonnie Hall's 2014 motion for sanctions deserves heightened scrutiny. A recovery of \$6,000 that costs the Estate three times that amount to pursue is not in the best interest of the Estate. Was that motion filed in good faith or for the purpose of enhancing the movant's prospects for compensation.

CERTIFICATE OF SERVICE

I hereby certify that two (2) copies of the Brief of Appellant have been served this date upon counsel of record by mailing copies first-class Mail, addresses as follows:

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