

SUPREME JUDICIAL COURT OF MAINE

Conservatorship of Emma

2017 ME 1, 153 A.3d 102 · Decided January 5, 2017

SUMMARY

The Maine Law Court declined to answer a reported question concerning public electronic access to financial information in conservatorship records. The Court concluded that the question involved broad policy issues better addressed through rulemaking, could become moot based on an independent ADA-related ruling, and would not finally resolve all disputes in the conservatorship matter. The reported question was discharged.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Chief Justice Saufley; Alexander; Gorman; Hjelm; Humphrey; Jabar; Mead; Saufley
JURISDICTION	Maine
DECIDED	January 5, 2017
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Kennebec County Probate Court reported an interlocutory legal question concerning public online access to financial information in conservatorship records pursuant to Maine Rule of Appellate Procedure 24(a).
STANDARD OF REVIEW	The Supreme Judicial Court independently determines whether acceptance of a reported question is consistent with its appellate function or would improperly place it in the role of an advisory body.
PRECEDENTIAL VALUE	Published opinion; precedential on the standards governing reported questions under Maine Rule of Appellate Procedure 24.
PARTIES	Conservator of Emma v. Maine Freedom of Information Coalition

TOPICS

[appellate procedure](#)[final judgment rule](#)[conservatorship](#)[probate procedure](#)[ada / disability](#)

PRACTICE AREAS

appellate procedure

probate

conservatorship

public access to court records

Americans with Disabilities Act

QUESTIONS PRESENTED

1. Whether the Supreme Judicial Court should accept and answer a reported question concerning whether conservatorship inventories, accounts, or summary financial information should be available online.
2. Whether answering the reported question would be consistent with the court's appellate function rather than constitute an advisory opinion or de facto rulemaking.

HOLDINGS

1. The court declined to accept or answer the reported question because it raised broad policy issues extending beyond the controversy, sought an advisory determination inconsistent with the court's appellate function, and could become moot through subsequent proceedings.
2. The court may not undertake de facto rulemaking or issue an advisory opinion through a reported question when the question presents broad policy issues that should instead be addressed through rulemaking or statutory action.

KEY QUOTATIONS

“We cannot undertake de facto rulemaking— without public notice and a full opportunity for public comment —by responding to a reported question that seeks an advisory opinion in a matter that may well be resolved on a separate legal basis.” (¶ 13)

“Because the reported question may not be answered consistent with our basic function as an appellate court and instead seeks an advisory opinion on an issue that may be rendered moot by subsequent decision-making, we discharge the reported question.” (¶ 14)

FACTUAL BACKGROUND

Emma's husband was appointed conservator in 2011 and filed inventories and accounts identifying the approximate value of her estate. After his death, Emma's son became conservator, filed updated and amended inventories, and sought to remove estate-value information from the publicly available online probate docket. While the matter was pending, the son also requested removal of the information as an accommodation under the Americans with Disabilities Act.

PROCEDURAL HISTORY

Emma's son, acting as conservator, moved to remove financial information concerning the estate from the publicly available probate docket and later sought the same relief as an accommodation under the Americans with Disabilities Act. The Probate Court denied the initial motion, later temporarily removed summary financial information from the online docket, and reported a broader question to the Supreme Judicial Court. The Supreme Judicial Court declined to answer the reported question and discharged the report.

DISPOSITION

dismissed

CASES CITED

- Littlebrook Airpark Condo. Ass'n v. Sweet Peas, LLC, 2013 ME 89, 81 A.3d 348

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