

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

KARYN M. KELLEY,

Petitioner,

v.

KEVIN M. KELLEY,

Intervenor / Respondent,

On Petition For A Writ Of Certiorari To
The United States Court Of Appeals
For The First Circuit

APPENDIX
PETITION FOR A WRIT OF CERTIORARI

Attorney William J. Amann
Counsel of Record for Respondent
757 Chestnut Street
Manchester, NH 03104

Karyn M. Kelley
Pro Se Petitioner
P. O. Box 1706
Merrimack NH 03054
(603) 820-2664

February 1, 2024

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APPENDIX A

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case Nos. 2022-0733 and 2023-0037, Mary Feeney v. Karyn Kelley, the court on November 9, 2023, issued the following order:

Supreme Court Rule 22(2) provides that a party filing a motion for rehearing or reconsideration shall state with particularity the points of law or fact that she claims the court has overlooked or misapprehended.

We have reviewed the claims made in the motion to reconsider and conclude that no points of law or fact were overlooked or misapprehended in our decision. Accordingly, upon reconsideration, we affirm our August 22, 2023 decision and deny the relief requested in the motion.

Relief requested in motion to reconsider denied.

MacDonald, C.J., and Hicks, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

Hillsborough County Superior Court North, 216-2010-EQ-00193

Honorable David A. Anderson

William J. Amann, Esq.

Michael R. Feniger, Esq.

✓ Ms. Karyn Kelley

Daniel C. Proctor, Esq.

Charles A. Russell, Esq.

Sherri L. Miscio, Supreme Court

File

APPENDIX B

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case Nos. 2022-0733 and 2023-0037, Mary Feeney v. Karyn Kelley, the court on August 22, 2023, issued the following order:

The court has reviewed the written arguments and the record submitted on appeal, and has determined to resolve the case by way of this order. See Sup. Ct. R. 20(2). In these consolidated appeals, the defendant, Karyn Kelley, appeals orders of the Superior Court (Anderson, J.): (1) granting a motion of the intervenor, Kevin M. Kelley, who is the defendant's brother and personal representative of the estate of their now-deceased mother, to intervene and attach certain funds held by the trial court; and (2) granting the intervenor's motion to distribute a portion of the attached funds. We affirm.

We begin by summarizing the procedural history of this case. In 2014, the Trial Court (Abramson, J.) granted a petition to partition certain real property that the defendant and the plaintiff, Mary Feeney, had jointly owned. We upheld the trial court's decision following the defendant's appeal. See Feeney v. Kelley, No. 2015-0049 (N.H. Oct. 9, 2015). Thereafter, a court-appointed commissioner sold the property and deposited the proceeds into an escrow account to be distributed by the trial court. Following a further evidentiary hearing, the Trial Court (Anderson, J.) issued an order on August 31, 2020, dividing the proceeds and awarding \$46,107.72 of the proceeds to the defendant. On September 25, 2020, the trial court denied the defendant's motion to reconsider the order dividing the sale proceeds.

Five days later, on September 30, 2020, the intervenor moved to intervene, submitting proof that: (1) prior to her death, the decedent secured a civil judgment against the defendant in the amount of \$33,000; (2) the intervenor is the court-appointed personal representative of the decedent's estate; (3) on September 4, 2020, the United States Bankruptcy Court issued an order excepting the \$33,000 judgment from the defendant's bankruptcy discharge; (4) the defendant did not appeal the bankruptcy court's order, and the bankruptcy court closed the defendant's bankruptcy on September 29, 2020; and (5) the defendant owes the estate \$33,000 plus interest. The intervenor sought to intervene in order to claim an interest in the \$46,107.72 that the trial court was holding on behalf of the defendant, and he moved to attach those funds. Although the intervenor had filed the motion to attach as an ex parte motion, the trial court noted that, because the funds were held by the court, there was no danger that they would be transferred, and thus it ordered the intervenor to serve the motion on all parties, and gave the defendant fifteen days within which to object. The defendant subsequently

objected both to the motion to intervene and to the motion to attach, and on October 19, 2020, the Trial Court (Anderson, J.) granted both motions.

One week later, on October 26, 2020, the defendant filed a notice of mandatory appeal with this court. In her appeal, the defendant challenged the trial court's August 31, 2020 order dividing the proceeds from the sale of the property and awarding \$46,107.72 to the defendant. The defendant did not specifically challenge the October 19, 2020 order granting the intervenor's motions to intervene and to attach the \$46,107.72. Three days later, on October 29, 2020, the defendant filed a motion with the trial court to reconsider its October 19, 2020 order. The defendant did not notify this court that she had filed the post-appeal reconsideration motion, and the trial court did not rule upon it. We ultimately upheld the trial court's decision dividing the sale proceeds. See Feeney v. Kelley, No. 2020-0490 (N.H. Oct. 20, 2021). The United States Supreme Court denied the defendant's petition for certiorari on June 13, 2022, and on August 22, 2022, the United States Supreme Court denied the defendant's petition for rehearing.

On October 26, 2022, the intervenor filed a motion with the trial court seeking to distribute \$33,000 of the attached funds to satisfy the outstanding judgment, and \$4,436.40 of the funds to satisfy attorney's fees that had been awarded by the court that had issued the \$33,000 judgment and by the court with jurisdiction over the decedent's estate. The defendant objected, asserting, among other things, that the trial court had improperly granted the motions to intervene and to attach, and that the trial court had never ruled on her October 29, 2020 motion to reconsider. The Trial Court (Anderson, J.) granted the motion to distribute on November 21, 2022, observing that, with respect to the October 29, 2020 motion for reconsideration, the motion was "now moot as [the defendant] unsuccessfully appealed the ruling at issue."

Thereafter, the defendant filed two separate mandatory appeals, one identifying the October 19, 2020 order granting the motions to intervene and attach as the decision being appealed and the November 21, 2022 order on the motion to distribute as a decision on a "post-trial motion," see Sup. Ct. R. 7(1)(C) (noting that a "decision on the merits" includes a decision on a motion "made after an order, verdict, opinion, decree or sentence," and that a timely post-decision motion stays the running of the appeal period), and one identifying the November 21, 2022 order as the decision being appealed and an order denying the defendant's subsequent motion to reconsider as a decision on a post-trial motion. We accepted both appeals and consolidated them. On appeal, the defendant raises numerous arguments challenging both the October 19, 2020 order granting the motions to intervene and attach, and the November 21, 2022 order granting the motion to distribute the attached funds.

We conclude that the trial court's October 19, 2020 order granting the motions to intervene and attach is not properly before us in this appeal. Under

the final judgment doctrine, a trial court order that does not conclude the proceedings by deciding all pending issues is interlocutory, and any appeal of an order issued prior to the trial court's resolution of all pending issues is premature under Supreme Court Rule 7. See Jesurum v. WBTS CC Ltd. P'ship, 169 N.H. 469, 482 (2016) (holding that defendants' appeal of the trial court's order on the merits prior to the trial court's ruling on the plaintiff's timely motion to reconsider the denial of attorney's fees was premature); Van Der Stok v. Van Voorhees, 151 N.H. 679, 681 (2005) (holding that appealing party properly waited to file appeal until after trial court issued ruling on attorney's fees, rather than to appeal its earlier denial of motions for judgment notwithstanding the civil jury verdict and to set aside the verdict). Here, although the defendant expressly challenged only the August 31, 2020 decision dividing the sale proceeds and awarding her \$46,107.72 of the proceeds in her October 26, 2020 appeal, the August 31, 2020 decision did not become final and appealable until October 19, 2020, when the trial court granted the intervenor's pending motions and resolved the remaining issues in the case.

Accordingly, the October 19, 2020 decision granting the motions to intervene and attach was necessarily part of the final decision on the merits that the defendant timely appealed on October 26, 2020. Once the defendant timely filed her appeal on October 26, 2020, the trial court lacked jurisdiction to rule upon her October 29, 2020 motion to reconsider. Rautenberg v. Munnis, 107 N.H. 446, 447 (1966). By not challenging the October 19, 2020 order in her 2020 appeal, the defendant effectively waived any issues she could have raised regarding that order, see State v. Blackmer, 149 N.H. 47, 49 (2003) (stating that issues not raised in notice of appeal or raised in a notice of appeal but not briefed are waived), and the trial court, therefore, correctly observed the October 29, 2020 motion for reconsideration was "now moot as [the defendant] unsuccessfully appealed the ruling at issue." We conclude, therefore, that the only issues properly before us as part of this appeal are those issues challenging the trial court's November 21, 2022 decision granting the intervenor's motion to distribute \$37,436.40 of the attached funds.

As the appealing party, the defendant has the burden of demonstrating reversible error. Gallo v. Traina, 166 N.H. 737, 740 (2014). Based upon our review of the trial court's order granting the intervenor's motion to distribute \$37,436.40 of the attached funds, the defendant's challenges to that decision, the relevant law, and the record submitted on appeal, we conclude that the defendant has not demonstrated reversible error. See id.

Affirmed.

MacDonald, C.J., and Hicks, Hantz Marconi, and Donovan, JJ., concurred.

**Timothy A. Gudas,
Clerk**

APPENDIX C

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**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Northern District
300 Chestnut Street
Manchester NH 03101

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.nh.gov>

December 22, 2022

KARYN KELLEY
PO BOX 1706
MERRIMACK NH 03054

Case Name: **Mary Feeney v. Karyn Kelley**
Case Number: **216-2010-EQ-00193**

You are hereby notified that on December 20, 2022, the following order was entered:

RE: MOTION TO RECONSIDER NOTICED ORDER NOVEMBER 22, 2022 ON
MOTION FOR JUDGMENT AND TO DISTRIBUTE FUNDS:

"Denied for the reasons articulated by Mr. Kelly." (Anderson, J.)

W. Michael Scanlon
Clerk of Court

(539)

C: William J. Amann, ESQ

APPENDIX D

12-1-22
copy

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH COUNTY

SUPERIOR COURT-NORTH
CASE NO: 216-2010-EQ-00193

Mary Feeney

v.

Karyn Kelley

**MOTION TO RECONSIDER NOTICED ORDER NOVEMBER 22, 2022 ON
MOTION FOR JUDGMENT AND TO DISPTIBURE FUNDS**

NOW COMES, the Defendant, Karyn Kelley (hereafter Karyn) , in the above-captioned matter, by and through her Pro Se, and states as follows:

This Motion is filed pursuant to Civil Rules, Rule 12 Motions (e), which this Court has overlook points of laws or facts.

1. This Court has erred as a mater of law or facts, which Karyn is requesting this Court Reconsider its aforementioned Order, which as a matter of law should be Overruled, Vacated or Dismissed with Prejudice.
2. The Order of this Court is not Final, which Karyn has a right to Appeal to New Hampshire Supreme Court under Rule 7, Notice of Mandatory Appeal.
3. Karyn has a right to Appeal the Court Order of Notice dated October 19, 2020, which had a Pending Motion to Reconsider Noticed Order October 19, 2020 on Motion to Intervene Kevin Kelley and Motion for Ex-Parte Attachment filed on October 29, 2020, which had not been ruled upon until November 22, 2022. Karyn has 30 days to file her Appeal on said Order with Motion to Reconsider which was ruled on about 2 years later. This Court erred in its statement, whereby Karyn did not Appeal the ruling at issue as she awaited the ruling on Reconsideration, which gave this Court an opportunity

to Overrule, Vacate or Dismiss its Order with Prejudice for the reasons stated in the Motion to Reconsider. *See this docket #552.*

4. On September 30, 2020, Kevin Kelley (hereafter Kevin) filed a motion to intervene, claiming that the Estate has won Judgments against Karyn and seeking to attach the \$46, 107.72 funds awarded by this Court to Karyn.
5. Karyn filed an Objection to Kevin Kelley's Motion to intervene and Motion for Ex-Parte Attachment on October 15, 2020. *See this docket #546.*
6. This Court erred as a matter of law that violated Karyn's right to Due Process under the 1st, 4th, 5th and 14th Amendments.
7. **Under NH RSA 511-A:3 Hearings by Court.-** When a defendant objects to the making of attachments, the court shall set a hearing on such objection within 14 days of the receipt of such objection. Upon hearing, the burden shall be upon the plaintiff to show that there is a reasonable likelihood that the plaintiff will recover judgment including interest and costs on any amount equal to or great than the amount of the attachment. Upon satisfying said burden, the plaintiff shall be entitled to the attachment unless the defendant establishes to the satisfaction of the court that his assets will be sufficient to satisfy such judgment with interest and cost if the plaintiff recovers same. Such hearings shall not be bound by the rules of evidence. The court may appoint such masters, referees or magistrates as may be necessary to conduct such hearings.
8. This Court erred by its Order of October 19, 2020, which granted Kevin's request to intervene without having a hearing.

9. This Court on October 19, 2020 Ordered Kevin to complete his Ex-Parte Attachment service on Karyn within 30 days. *See this docket's court order.*
10. On October 29, 2020, Karyn filed a Motion to Reconsider Noticed Order October 19, 2020 on Motion to Intervene Kevin Kelley and Motion for Ex-Parte Attachment. *See this docket #552.*
11. New Hampshire Superior Court Rule 47(b) Attachments without Notice (Ex-Parte). The following procedure is to be used where the Plaintiff request permission to attach using the method that does not require notice to the defendant prior to attachment. 1) The Motion for Attachment shall be executed under oath, and accompanied with the Notice to defendant and Order form; 2) The motion, and copies, are to be filed in the court, and an entry fee paid; 3) If the motion is denied, the plaintiff may move for attachment under the provisions of RSA 511-A:3. 4) If the motion is granted, the plaintiff or his or her representative is authorized to prepare a Writ of Attachment in accordance with the Order granting the request. 5) A certified copy of the Motion, the Notice to the defendant, and the court's order thereon shall be fastened to the face of the Writ of Attachment. 6) The Writ of Attachment, Complaint, and Summons, together with copies, shall be delivered to the sheriff with directions to serve them within the time directed by the court's order. In those cases. . . The Returns of Service are to be filed immediately after service has been completed.
12. Kevin FAILED to complete service on Karyn within 30 days or by November 18, 2020, which as a matter of law whereby this Ex-Parte attachment is VOID,

Vacated that should be Dismissed with Prejudice. *See NH Superior Court Rule 47 (b).*

13. Under T.R. 53.2, if a judge takes a cause tried to the court under advisement and fails to determine any issue of law or fact within ninety (90) days of the submission of all pending matters, the case may be withdrawn from the judge. Ind. Jul 1, 2022. In this case the Judge failed to order a hearing or trial however the Motion to Reconsider was filed or taken under advisement, which was ruled on about 2 years later.
14. This Court erred with attorneys' fees in the amount of \$4,436.40, whereby Attorney Shepard's fees were properly listed in Karyn's schedules furthermore properly discharged under chapter 7 bankruptcy. This Court erred with the alleged Massachusetts Probate attorneys fees in the amount of \$1,260.00, whereby Karyn failed to be noticed or heard in Massachusetts which the Probate case was Noticed for Interlocutory Appeal as of August 15 2019, which in Massachusetts the court assembles the record to the Appellate court, moreover the date of the alleged fees are January 28, 2021 or 4 months after Kevin's filed to intervene. *See Notice of Interlocutory Appeal affixed hereto.*
15. This court lacks jurisdiction over a pending Appeal in the State of Massachusetts.
16. This Court stated Karyn's objection has little merit . . . she argues that the attachment order was never served upon her. Even if that were true, it would not matter at this point, which violates Karyn's right to Due Process, a Jury

Trial and a Counterclaim, moreover the laws of the State of New Hampshire and Constitutional rights, which prejudiced Karyn.

17. This Court points to the Bankruptcy Court stating, Kevin had authority to act on behalf of the Estate. Kevin filed Adversary Proceedings in Bankruptcy Court on July 30, 2019, with no standing. Kevin had a letter of authority for personal representative dated October 24, 2019 almost (3) months after Kevin filed Adversary Proceedings, which the letter was not signed by the Honorable Presiding Judge Ross presiding over the Massachusetts case pending Appeal.
18. As of 08/14/2019, the Probate Court was pending Interlocutory Appeal (#124) and Stay (#128) of the Estate. In Massachusetts you must wait on the Court to Assemble the Records and for the Court to forward the Records to the Appellate Court.
19. This Court noted in its Order of October 19, 2020 that the Estate has no interest in the underlying dispute between Karyn and Mary Feeney. The Estate must demonstrate 1) a right involve in this case, 2) a direct and apparent interest, and 3) that their interest would suffer if denied intervention. The Estate cannot satisfy each of the criteria to Intervene, therefore should have been denied. Lamarche v McCarthy 158 NH 197, 200 (2008), Snyder v N.H. Savings Bank, 134 NH 32, 35 (1991).
20. The 9th Circuit Court in Merrimack holds jurisdiction in this matter, whereby the parties were Karyn and Edna Kelley (hereafter Edna) which Edna obtained judgment (8) years ago on 11/17/2014. Edna failed to assert her

rights as stated in the Objection previously filed with this Court, whereby the Estate is time barred. *See this docket #546.*

21. Edna just (2) weeks after obtaining a \$33,000.00 judgment had a Notarized codicil on 12/03/2014 that intentional omitted collection of the judgment, whereby Edna had no intention of ever collecting on the judgment. *See Karyn's Exhibits affixed to her Objection filed October 15, 2020 docket #546.*
22. Edna failed to file for over (3) years or act in the appropriate Court to secure her judgment; motion for periodic payments, motion for non-compliance, motion for judgment lien, writ of mesne, moreover failed to execute the judgment. *See Civil Rules of Procedure, RSA 511:3, RSA 527:6. RSA 540-A.*
23. Edna sat on her hands or intentionally chose not to collect a debt; therefore the Estate is subject to the Doctrine of Laches. *In re Estate of Laura*, 141 NH 628,635 (1997), *Jenot v. White Mt. Acceptance Corp.*, 124 NH 701, 710 (1984), *Miner v. A&C Tire Co.*, 146 NH 631, 633 (2001) (quotation omitted).
24. *RSA 527:6* Limitation of Issue.-Executions may be issued at any time within two years after judgment rendered.....Edna failed to execute judgment by November 17, 2016 therefore Estopped by the Doctrine of Laches. *Weeden v. City of Rochester* 2018 WL 3237949 NH 6/4/18.
25. The Estate has no right, no interest or standing in this Petition, which should be denied with prejudice, moreover failed to submit an Affidavit or request Leave of Court in this case that concluded.
26. The Estate was filed on January 8, 2018, which Kevin filed and signed under the pains and penalties of perjury a Voluntary Administration Statement

pursuant to MA GL 190B, section 3-1201 that the Estate does not exceed \$25,000.00, moreover Kevin filed that every asset of Edna's Estate totaled \$860.00. See Karyn's Exhibits filed with her Objection on October 15, 2020 docket #546.

27. Kevin had unclean hands, which all Notices or Pleadings were filed retaliatory with malice and conspiracy.
28. Kevin had a calculated scheme to injure Defendant through his reckless actions that he Impeached himself on the stand in Merrimack District Court when he claimed he paid "rent" timely, which he failed to pay according to the "lease" terms and he intentionally stop payment on "rent" checks.
29. Kevin's calculated scheme of Fraud on the Courts, which Kevin had used multiple courts in (2) States to "get even" with Karyn because Karyn refused to rent Kevin's home in Florida.
30. Judge Moore refused to have Edna testify at trial in 2014, and overlooked Edna was in default of the "lease".
31. Judge Moore refused to look at evidence at trial that Edna and Karyn lived together, moreover Judge Abramson Ordered in July 2010 under this docket, that Karyn may live with Edna (her mother) in Merrimack, which the Order is recorded at the registry of deeds moreover that Order stated Edna lived for (11) years and paid no rent. Edna and Karyn resided together since 1999 in (5) different locations in (2) states. *See this Docket Order of November 18, 2010 docket #5.*

32. It is public and Court record that the Honorable Judge Moore was escorted off the bench for fraud. Subsequently the now disgraced disbarred Judge Moore was convicted of fraud, which his order should be reviewed.
33. The Estate's interest did not suffer; plainly Edna failed to execute the judgment from November 17, 2014 with full knowledge of this case from 2010 therefore time barred. Karyn's constitutional rights had been violated, due process had been violated, the delay in execution is barred that potentially awarded higher fees, with the passage of time the witness's are no longer available for trial that prejudice Karyn.
34. When a judgment lapses (or becomes dormant), the creditor can no longer legally enforce it. That means a creditor cannot: garnish your wages, attached your bank account, seize your property or make you appear for a debtor examinations.
35. Defendant was prejudiced without her right to a Jury Trial or Counterclaim, that the Estate failed to have an asset for \$33,000.00, which Kevin individual would be unjustly enriched for his own benefit.
36. Kevin caused damages to Karyn financially, by destruction of property and theft at a minimum.
37. Kevin filed a Fraudulent Complaint against Feeney (who is a party in this case) in Manchester District Court for money damages he "claimed" he paid on the Merrimack property as an owner of real estate; subsequently the case was transferred to this court under docket #216-2011-CV-00464. The money damages claimed were paid under the "lease" between Edna and Karyn.

Karyn was the sole owner of the Merrimack property. *See docket #5 also recorded at the official registry of deeds.*

38. The funds held by this Court are subject to Karyn's Homestead Exemption of \$120,000.00. RSA 480:1, 480:9
39. Feeney failed to have any interest in the partitioned property in 2014 at trial under RSA 547-C:1. The trial concluded, which there was no open case to Intervene.
40. At issue here is the superior court's decision not to inquire into the attachment's grounds when the defendant so requested. We conclude that the court erred by disregarding RSA 498:21, which provides: "Any lien acquired by proceedings in equity may be released, discharged or modified by the court in such manner and upon such terms as justice may require." See Sindt v Gilfoyle NO. 83-380, 124 N.H. 315, 469 A.2d 1334 (N.H. 1983).
41. In this case Karyn objected substantively that Intervention and attachment was improper and time-barred which the Estate waived and/or is estopped from claiming judgment. When a judgment lapses or becomes dormant, the creditor can no longer legally enforce it.

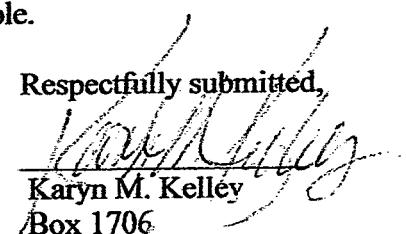
WHEREFORE, The Defendant respectfully requests this Honorable Court to Reconsider its Order and:

- A. Find Kevin failed to Serve Karyn as a matter of law;
- B. Find the Granted Order of October 19, 2020 is Vacated for lack of service or a matter of law;

- C. Find the court erred when it failed to rule on the Motion to Reconsider for 2 years;
- D. Find the Granted Order of November 22, 2020 is Vacated for lack of service or a matter of law;
- E. Find Edna failed to act or collect on her judgment timely;
- F. Find Edna intentionally omitted collection of her judgment in her codicil just (2) weeks after she was granted judgment;
- G. Find Edna slept on her right therefore the Estate is time barred;
- H. Reconsider its Order that Granted Motion to Intervene;
- I. Deny Motion to Intervene with prejudice;
- J. Reconsider its Order that Granted Motion for Ex-parte Attachment;
- K. Deny Motion for Ex- Parte Attachment with prejudice;
- L. Reconsider its Order that Granted to Distribute Funds;
- M. Deny Motion to Distribute Funds with prejudice;
- N. Find this court lacks jurisdiction;
- O. Order Kevin pay Defendant fees and costs; and
- P. Grant any further relief that is just and equitable.

Date: December 1, 2022

Respectfully submitted,


Karyn M. Kelley
Box 1706
Merrimack NH 03054
603-820-2664

CERTIFICATE OF SERVICE

I hereby certify that copies have been sent first class mail delivered to Attorneys Amann.

Date: 12/01/22


Karyn M. Kelley

FILED AUG 15 2019

Commonwealth Of Massachusetts
Trial Court Division
Probate and Family Court

Essex, SS

Docket #ES17P3683EA

In the matter of Edna V. Kelley

Notice of Interlocutory Appeal

Now comes, Karyn Kelley by and through her Pro Se, that states her intention to Interlocutory Appeal and states the following:

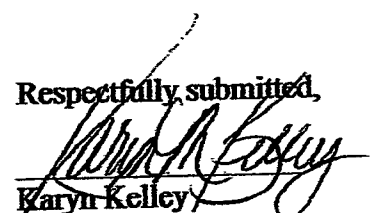
1. Karyn Kelley, heir at law, Notice of Interlocutory Appeal informs this Court Karyn's intention to Appeal the Decision by Judge Ross that Denied Karyn Kelley's Motion to Reconsider Kevin M. Kelley's Motion to Strike Karyn Kelley's Affidavit of Objections to Formal Appointment of Personal Representative, Kevin M. Kelley, notice to parties dated July 16, 2019.

Wherefore, the Karyn Kelley respectfully requests this Honorable Court:

- A. Enter this Notice of Appeal filed timely.

August 14, 2019

Respectfully submitted,


Karyn Kelley
62 Indian Rock Rd
Merrimack NH 03054
603-820-2664

Certificate of Service

I certify that a copy of this ^{Notice} ~~motion~~ was sent first class mail to attorney Harvey this 14th day of August, 2019.


Karyn Kelley

APPENDIX E

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Northern District
300 Chestnut Street
Manchester NH 03101

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.nh.gov>

November 22, 2022

**KARYN KELLEY
PO BOX 1706
MERRIMACK NH 03054**

Case Name: **Mary Feeney v. Karyn Kelley**
Case Number: **216-2010-EQ-00193 216-2010-EQ-00191; 216-2015-CV-00249**

You are hereby notified that on November 21, 2022, the following order was entered:

RE: MOTION FOR JUDGMENT AND TO DISTRIBUTE FUNDS:

See copy of order attached - Anderson, J.

W. Michael Scanlon
Clerk of Court

(539)

C: William J. Amann, ESQ

E-1

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

HILLSBOROUGH, SS.
NORTHERN DISTRICT

Mary Feeney

v.

Karyn Kelley

Docket No. 216-2010-EQ-00193

ORDER ON MOTION TO DISTRIBUTE FUNDS

Before the court is the motion of Intervenor Kevin M. Kelley, in his capacity as Personal Representative of the Estate of Edna V. Kelley ("Kevin" for clarity or the "Estate"), to distribute funds that have been awarded to his sister Defendant Karyn Kelley ("Karyn for clarity) but are still held by the court. For the reasons articulated in Kevin's motion and reply, and those stated below, the motion to distribute \$37,436.40 is GRANTED. No further relief is awarded at this time.

The Court will not repeat the long and tortured procedural history of this case except to say that there is no pending appeal in this case and all prior orders of the court are final.

On September 30, 2020, Kevin filed a motion to intervene, claiming that the Estate has won judgments against Karyn and seeking to attach the \$46,107.72 in funds awarded by this Court to Karyn. On October 19, 2020, this Court granted Kevin's request to intervene and his motion for an attachment. In its order, the Court noted that the Estate had a valid judgment against Karyn in the amount of \$33,000 issued by Merrimack District Court, 9th Circuit. The Estate has also established that the

Merrimack District Court and Essex Probate and Family Court awarded a combined \$4,436.40 in attorney's fees. As this Court's order granting the motion to intervene and foregoing court orders making money awards to the Estate are all now final, Kevin asks this Court to distribute \$37,436.40.

Karyn's objection has little merit (except as to several items of personal property that are discussed below). She argues that the attachment order was never served upon her. Even if that were true, it would not matter at this point. The court still holds funds for the benefit of Karyn to which Kevin has established an entitlement as a judgment creditor. She also rehashes a chapter 7 bankruptcy argument, which this Court addressed in its October 19, 2020 order. Finally, she notes an October 29, 2020 motion for reconsideration that was not expressly ruled upon. That motion is now moot as Karyn unsuccessfully appealed the ruling at issue.

Moreover, as discussed in this Court's October 19, 2020 order, courts have the ability to award funds to judgment creditors. "The right of a judgment creditor to invoke the equitable jurisdiction of the court by a plea in intervention to satisfy a judgment out of assets in the custody of the court is well recognized in many jurisdictions." *Urschel v. Black*, 20 P.2d 174, 176 (Ok. 1933). The United States Supreme Court has also recognized this principle in the context of federal courts. See *Hoffman v. McClelland*, 264 U.S. 552, 558 (1924) (noting that this principle applies even when the federal court would lack subject matter jurisdiction over the underlying claim). Thus, Kevin is entitled to payment of \$37,436.40.

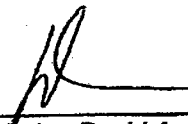
The Court, however, agrees with Karyn that it cannot award Kevin \$5,000 for a sewing machine and a Victrola and accompanying binders. While Kevin points to court

orders awarding these items to the Estate, for a valuation he has relied on eBay and ETSY. Kevin has not brought claims in this action for these items and has not received any judgment that it entitles the Estate to a payment of \$5,000. Accordingly, there is no basis on which to award this sum and Kevin's request for a distribution in this amount is DENIED.

In sum, the Court GRANTS Kevin's request for a distribution in the amount of \$37,436.40 but DENIES any request for additional distributions.

November 21, 2022

Date



Judge David A. Anderson

APPENDIX F

29-20

THE STATE OF NEW HAMPSHIRE
HILLSBOROUGH COUNTY

SUPERIOR COURT-NORTH
CASE NO: 216-2010-EQ-00193

Mary Feeney
v.
Karyn Kelley

**MOTION TO RECONSIDER NOTICED ORDER OCTOBER 19, 2020 ON
MOTION TO INTERVENE KEVIN KELLEY AND MOTION FOR EX-PARTE
ATTACHMENT**

NOW COMES, the Defendant, Karyn Kelley (hereafter Karyn) , in the above-captioned matter, by and through her Pro Se, and states as follows:

This Motion is filed pursuant to Civil Rules, Rule 12 Motions (e), which this Court has overlooked or misapprehended points of law or fact.

1. Karyn acknowledged the Bankruptcy Court exempted the judgment from discharge, which she failed to argue anything related to her Bankruptcy in her Objections to Kevin Kelley's (hereafter Kevin) Motion to Intervene and Motion for Ex Parte Attachment filed with this Court on October 15, 2020.
2. This Court in its Order erroneously stated that Karyn points to her Bankruptcy filing as a bar to the Edna Kelley's (hereafter Estate) claim.
3. Instead Karyn argued the Estate waived execution of the judgment by not identifying it as an asset of the Estate in probate. See Exhibit A of Objection.
4. The Estate further waived execution of the judgment in the codicil filed in probate that identified the Court Order dated November 17, 2014 with the return of a sewing machine and victrola. Moreover, stated, " Should these items noted above NOT be returned to me as ordered by the Court and should

they continue to remain in the possession of my daughter, Karyn Kelley, at the time of my death, I request that my son Kevin Kelley, pursue all available legal measures to return them to him as part of my estate that I intend to leave solely to him". See Exhibit B of Objection.

5. The 9th Circuit Court in Merrimack held jurisdiction in this matter, whereby the parties were Karyn and Edna Kelley (hereafter Edna) which Edna obtained judgment (6) years ago. Edna for over (3) years failed to assert her rights in the appropriate court to secure her judgment; motion for periodic payments, motion for non-compliance, motion for judgment lien, writ of mesne, moreover failed to execute the judgment thereby waived her right to execution, which the Estate is now Estopped. Civil Rules of Procedure, RSA 511:3, RSA 527:6. RSA 540-A.
6. Edna sat on her hands or intentionally chose not to collect a debt; therefore the Estate is subject to the Doctrine of Laches. In re Estate of Laura, 141 NH 628,635 (1997), Jenot v. White Mt. Acceptance Corp., 124 NH 701, 710 (1984), Miner v. A&C Tire Co., 146 NH 631, 633 (2001) (quotation omitted).
7. RSA 527:6 Limitation of Issue.-Executions may be issued at any time within two years after judgment rendered.....Edna failed to execute judgment by November 17, 2016 therefore Estopped by the Doctrine of Laches. Weeden v. City of Rochester 2018 WL 3237949 NH decided 6/4/18.
8. This Court noted in its Order that the Estate has no interest in the underlying dispute between Karyn and Mary Feeney. The Estate must demonstrate 1) a right involve in this case, 2) a direct and apparent interest, and 3) that their

interest would suffer if denied intervention. The Estate cannot satisfy each of the criteria to Intervene, therefore should be denied. Lamarche v McCarthy 158 NH 197, 200 (2008), Snyder v N.H. Savings Bank, 134 NH 32, 35 (1991), Thayer v Town of Tilton 151 NH 483, 485(2004) (quotation omitted).

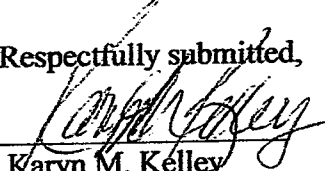
9. The Estate's interest did not suffer; plainly Edna failed to execute the judgment from November 17, 2014 with full knowledge of this case from 2010 therefore time barred. Karyn's constitutional rights had been violated, due process had been violated, the delay in execution is barred that potentially awarded higher fees, with the passage of time the witness's are no longer available for trial that prejudice Karyn.
10. When a judgment lapses (or becomes dormant), the creditor can no longer legally enforce it. That means a creditor cannot: garnish your wages, attached your bank account, seize your property or make you appear for a debtor examinations, which the funds held by this Court can not be attached or are subject to Karyn's Homestead Exemption of \$120,000.00. RSA 480:1, 480:9.
11. The Motion is an impermissible attempt to interject an entirely separate lawsuit into this case, especially when the trial concluded, final judgment had been entered, which there is no open case to Intervene, moreover Defendant on October 26, 2020 timely filed Rule 7 Mandatory Appeal with the State of New Hampshire Supreme Court.
12. As set forth above, the Estate's Motion is untimely that this Court was wrong in exercising its discretion to grant Intervention and attachment, which the decision was unsupported by the evidence or erroneous as a matter of law.

WHEREFORE, The Defendant respectfully requests this Honorable Court to
Reconsider its Order and:

- A. Find Edna failed to act or collect on her judgment timely;
- B. Find Edna intentional omitted collection of her judgment in her codicil just (2)
weeks after she was granted judgment;
- C. Find Edna slept on her right therefore the Estate is time barred;
- D. Reconsider its Order that Granted Motion to Intervene;
- E. Deny Motion to Intervene with prejudice;
- F. Reconsider its Order that Granted Motion for Ex-parte Attachment;
- G. Deny Motion for Ex- Parte Attachment with prejudice; and
- H. Grant any further relief that is just and equitable.

Date: October 29, 2020

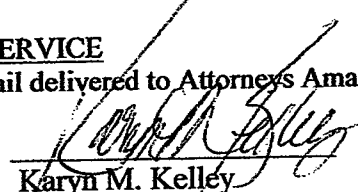
Respectfully submitted,


Karyn M. Kelley
62 Indian Rock Rd
Merrimack NH 03054
603-820-2664

CERTIFICATE OF SERVICE

I hereby certify that copies have been sent first class mail delivered to Attorneys Amann.

Date: 10/29/20


Karyn M. Kelley

This filing was prepared with the assistance of a New Hampshire attorney.

APPENDIX G

10-19-20

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Northern District
300 Chestnut Street
Manchester NH 03101

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

October 19, 2020

**KARYN KELLEY
PO BOX 1706
MERRIMACK NH 03054**

Case Name: **Mary Feeney v. Karyn Kelley**
Case Number: **216-2010-EQ-00193 216-2010-EQ-00191; 216-2015-CV-00249**

You are hereby notified that on October 19, 2020, the following orders were entered:

RE: ORDER ON PENDING MOTIONS:
See copy of Order attached. (Anderson, J.)

RE: MOTION FOR EX PARTE ATTACHMENT:
See copy of order attached. (Anderson, J.)

RE: SECOND COMPLIANCE WITH ORDER BY NOTICE OF SEPTEMBER 1 & 25, 2020
PERTAINING TO POOL TABLE AND ACCESSORIES:

"Denied. The Court finds the police account credible. Ms. Kelly must provide 5 dates in November by October 30, 2020 and she must be available on those dates. If she fails to comply with this order, she will forfeit her interest in the property (pool table and accessories)". (Anderson, J.)

W. Michael Scanlon
Clerk of Court

(923)

C: Daniel C. Proctor, ESQ; William J. Amann, ESQ

G-1

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
NORTHERN DISTRICT

SUPERIOR COURT

Mary Feeney

v.

Karyn Kelley

Docket No. 216-2010-EQ-00193

ORDER ON PENDING MOTIONS

Before the court are Defendant Karyn Kelley's motion to stay the court's August 31, 2020 judgment pending appeal and Kevin Kelley's motions to intervene for purposes of collecting on a separate judgment and to attach the funds held by the court for payment to Ms. Kelley. All three motions are GRANTED.

Plaintiff Mary Feeney does not really object to Ms. Kelley's motion to stay other than to disagree with the most of the assertions made in Ms. Kelley's motion. Thus, without passing on the disputed assertions, the Court GRANTS Ms. Kelley's motion to stay the payments called for by this Court's August 31, 2020 order until Ms. Kelley's appeal is ruled on.¹

On September 30, 2020, Kevin Kelley ("Kevin" for clarity), in his capacity as Personal Representative of the Estate of Edna V. Kelley (the "Estate"), filed a motion to intervene. Kevin is the brother of Ms. Kelley. They are both the children of Edna V. Kelley. In the motion to intervene, Kevin represented that Edna V. Kelley obtained a

¹ Ms. Kelley does not appear to have provided this court with the required notice of appeal. However, the parties both appear to have an understanding that an appeal is pending. If an appeal is not pending, either party may inform the court of that fact and the stay will be lifted.

judgment in her favor from the Merrimack 9th Circuit Court in the amount of \$33,000. Attached to the motion is a copy of the November 17, 2014 judgment (the "Judgment"). In the Judgment, the court found that Ms. Kelley wrongfully locked Edna V. Kelley out of her residence in violation of RSA 540-A:4. The court awarded to Edna V. Kelley a judgment of \$33,000 against Ms. Kelley, with all but \$5,000 held in abeyance if Ms. Kelley paid Edna V. Kelley \$5,000 within 30 days of the Judgment. Apparently, the \$5,000 was not paid within the required 30 days and thus \$33,000 is due under the Judgment. See U.S. Bankruptcy Court Summary Judgment Order of September 4, 2020 at 6 (noting existence of final judgment for \$33,000). Kelley once again points to her bankruptcy filing as a bar to the Estate's claim but on September 4, 2020, the federal bankruptcy court excepted the Judgment from the federal bankruptcy discharge. The bankruptcy court also noted Edna V. Kelley's death in 2017 and Kevin's authority to act on behalf of the Estate. Accordingly, the Estate is a valid judgment creditor of Ms. Kelley in the amount of \$33,000.

Ms. Kelley objects to Kevin's motion to intervene, arguing that the Estate has no interest in the underlying dispute between Ms. Kelley and Ms. Feeney. While that may be true, it is irrelevant to the right of a judgment creditor to intervene when a court is holding funds for a judgment debtor. Ms. Kelley in her objection recognizes that the New Hampshire law affords this Court discretion in deciding whether to allow third parties to intervene in an action. See Superior Court Rule 15; *Lamarche v. McCarthy*, 158 N.H. 197, 200 (2008) (the right to intervene "has been rather freely allowed as a matter of practice"). Moreover, "[t]he right of a judgment creditor to invoke the equitable jurisdiction of the court by a plea in intervention to satisfy a judgment out of

assets in the custody of the court is well recognized in many jurisdictions." *Urschel v. Black*, 20 P.2d 174, 176 (Ok. 1933). The United States Supreme Court has also recognized this principle in the context of federal courts. See *Hoffman v. McClelland*, 264 U.S. 552, 558 (1924) (noting that this principle applies even when the federal court would lack subject matter jurisdiction over the underlying claim). Thus the Estate's lack of interest in the underlying partition action is not a bar to intervention.


Ms. Kelley also notes that she has a series of claims against Kevin and/or the Estate but the Judgment dismissed Ms. Kelley's claims against Edna V. Kelley. Moreover, any remaining claims that Ms. Kelley may have against the Estate or Kevin personally are not judgments and thus are not a basis for an offset against the Judgment. If Ms. Kelley has viable claims, she must assert those in a separate action.

The Estate is thus entitled to intervene in this action. Ms. Kelley does not simply have an existing potential claim to funds in this partition action. This Court is holding \$46,107.72 in funds that it has awarded to Ms. Kelley. This Court has awarded Ms. Kelley funds in a final judgment that is subject only to any appellate rights that she has already exercised. Accordingly, this Court is much like a trustee defendant that is holding funds on behalf of a judgment defendant. As the Estate has clearly demonstrated that it has a valid judgment against Ms. Kelley in the amount of \$33,000, it is entitled to satisfaction of its judgment out of the funds awarded to Ms. Kelley.

For the foregoing reasons, the Estate's motion to intervene is GRANTED as is its motion to attach those funds.

So Ordered.

10/19/20
Date



David A. Anderson
Presiding Justice

THE STATE OF NEW HAMPSHIRE JUDICIAL BRANCH

<http://www.courts.state.nh.us>

Court Name: Hillsborough Superior Court Northern District

Case Name: Mary Feeney v. Karyn Kelley

Case Number: 216-2010-EQ-00193 Plaintiff
Defendant

(if known)

MOTION FOR EX PARTE ATTACHMENT

The Plaintiff requests permission to make the following attachments without prior notice to the Defendant:

Name of Defendant	Category of Property to be attached (check one)		Amount of attachment
	Real Estate Provide address or book & page reference. Attach additional pages if necessary.	Other	
Karyn Kelley		Funds	\$ 46,000.00
			\$
			\$

A. The Plaintiff certifies the following facts to establish a reasonable likelihood that he/she will recover the amount stated above. (Specify facts in detail. Attach additional pages if necessary).
Kevin Kelley, in his capacity as the Personal Representative of Edna V. Kelley, a Judgment Creditor has filed a Motion to Intervene for the funds that the court is holding for Karyn Kelley. The Estate has Judgments against Karyn Kelley

B. The Plaintiff asserts that such an attachment is justified on the following grounds:
 (Specify which of the statutory grounds for making an *ex parte* attachment applies and detail the facts warranting the application of those grounds. Attach additional pages if necessary).

- ☐ There is substantial danger the property sought to be attached will be damaged, destroyed, concealed, or removed from the state and placed beyond the attachment jurisdiction of the court.
- ☐ There is imminent danger of transfer to a bona fide third party.
- ☒ Other:

The Respondent/Defendant, Karyn Kelley, has refused and evaded paying the lawful, final judgment for more than half a decade, was recently bankrupt and is a vexatious litigant

Name of Filer William J. Amann, Esq.

/s/ William J. Amann 09/30/2020
 Signature Date
 (If plaintiff is a corporation or partnership, a duly authorized officer or partner shall sign.)

Braucher & Amann, PLLC 14866
 Law Firm, if applicable Bar ID # of attorney
764 Chestnut Street

(603) 486-1530
 Telephone

Manchester
 City NH ☒ State Zip code

wamann@ba-lawgroup.com
 E-mail

G-6

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Case Name: Mary Feeney

V. Karyn Kelley

Case Number: 216-2010-EQ-00193

MOTION FOR EX PARTE ATTACHMENT

State of New Hampshire, County of Hillsborough

This instrument was acknowledged before me on 9-30-2020 by William J. Amann

My Commission Expires 1-18-2022

Affix Seal, if any

Cynthia L.J. Shaw CYNTHIA L.J. SHAW, Notary Public
Signature of Notarial Officer / Title State of New Hampshire
My Commission Expires January 18, 2022

ORDER

☐ Motion to attach is denied.

☒ Motion to attach is ☒ granted ☐ granted subject to the following modifications:

The Plaintiff is granted permission to make the above attachment(s) and shall complete service on the Defendant within 30 days.

Diana A. Anderson
10/19/20

NOTICE TO DEFENDANT

The court has authorized the above attachment to secure any judgment or decree that the Plaintiff may obtain. You have the right to object in writing, ask for a hearing and request that the attachment be removed. Any objection to this attachment shall be filed in writing within 14 days after service of this notice on you. If you fail to file such a request within the time specified in the order, you will be deemed to have waived your right to a hearing with reference to the attachment, but not with reference to the merits of the Plaintiff's claim.

Date

Presiding Justice

APPENDIX H

15-20

THE STATE OF NEW HAMPSHIRE
HILLSBOROUGH COUNTY

SUPERIOR COURT-NORTH
CASE NO: 216-2010-EQ-00193

Mary Feeney
v.
Karyn Kelley

**OBJECTION TO KEVIN M. KELLEY'S MOTION TO INTERVENE AND
MOTION FOR EX PARTE ATTACHMENT**

NOW COMES, the Defendant, Karyn Kelley, in the above-captioned matter, by and through her Pro Se, and states as follows:

1. Defendant objects to the Motion to Intervene of Kevin M. Kelley as Personal Representative of the Estate of Edna V. Kelley (hereafter the Estate) as untimely and not in accordance with New Hampshire rules, practices or procedures. This case was filed as a Partition Petition in 2010 relative to personal property and the real property, 62 Indian Rock Road, Merrimack, NH, which was Karyn's homestead. The parties were Plaintiff, Mary Feeney (hereafter Feeney) and Defendant, Karyn Kelley (hereafter Karyn). Feeney was not occupying and had no interest in the property at any time relevant. The trial concluded, such that there is no open trial court case in which to intervene. Moreover, Defendant by October 26, 2020 will timely file a Rule 7 Mandatory Appeal with the State of New Hampshire Supreme Court.

Argument

2. "Any person shown to be interested may become a party to any civil action...." N.H. Super. Ct. Civil Rule 15. "It is within the trial court's discretion to grant intervenor status." Lamarche v McCarthy 158 N.H. 197,

200 (2008). The Movant must demonstrate:

1. a right involved in this case
2. a direct and apparent interest
3. that his interest would suffer if denied intervention.

Snyder v. N.H. Savings Bank, 134 N.H. 32, 35, (1991). Movant can not satisfy each of these criteria.

1. Movant has no right involved in this case.

3. The parties involved in the (6) year old judgment from Merrimack District Court on November 14, 2014 were Edna V. Kelley (hereafter Edna) and Karyn.
4. The Estate has no rights relative to the real estate subject to this partition action, which has been tried to conclusion. The Estate is attempting to enforce a judgment that has nothing to do with the property dispute between Feeney and Karyn which is the subject to this action. Put another way, the Estate is attempting to assert an independent cause of action in a concluded case, which would morph the present action into something entirely distinct from its current posture.
5. Moreover, the Estate has no right involved in this case where the attempted intervention and attachment is procedurally improper and time-barred. The Estate's requested intervention and attachment of funds is essentially an attempt to execute a judgment. Such as execution is time-barred. Pursuant to RSA 527:6, "[e]xecutions may be issued at any time within two years after

judgment rendered.” The judgment in question was issued on November 18, 2014. Thus, the Estate is time-barred from seeking execution.

6. Substantively, the Estate has no right to pursue because it waived and/or is estopped from pursuing the claimed judgment. The judgment was issued on November 18, 2014. On January 8, 2018, Kevin M. Kelley signed under the penalties of perjury a Voluntary Administration Statement pursuant to MA GL 190B, section 3-1201 in Essex County Probate, docket #17P-3683EA that listed Edna’s total assets in the amount of \$860.00. See Voluntary Admin. Stmt., attached as Exhibit A. Kevin failed to list the judgment of \$33,000.00 as an asset with the Essex Probate Court in Massachusetts.
7. Similarly, even if the Estate is deemed to have otherwise had a right involved in this case, any such right has been extinguished by the doctrine of laches, where Edna sat on her hands. “Laches is an equitable doctrine that bars litigation when a potential plaintiff has slept on his rights.” In re Estate of Laura, 141 N.H. 628, 635 (1997). “Laches ... is not a mere matter of time, but is principally a question of the inequity of permitting the claim to be enforced – an inequity founded in some change in the conditions or relations of the property or the parties involved.” Id. (quotation omitted). “In determining whether the doctrine should apply to bar a suit, the court should consider the knowledge of the plaintiffs, the conduct of the defendants, the interests to be vindicated, and the resulting prejudice.” Miner v. A&C Tire Co., 146 N.H. 631, 633 (2001) (quotation omitted).

8. The Estate's attempted intervention is unreasonably delayed and would result in unfair to prejudice to Karyn, who had no reasonable basis to expect that the Estate would pursue the judgment, where Kevin failed to list the judgment as an asset of the Estate in probate proceedings and failed to previously intervene in this years-old litigation. Additionally, Edna and thereafter her Estate failed to file a motion for periodic payments or motion for non-compliance, pursue any post-judgment attachment or lien, pursue execution of the judgment, or otherwise attempt collection or execution of the judgment until now, nearly six years afterward. The codicil to Edna's will filed in Essex Probate and which was executed approximately two weeks after the judgment in question was issued, specifically references efforts to collect personal property items purported to belong to the Estate but makes no reference to the \$33,000 judgment. See Will and Codicil, attached as Exhibit B.
9. Finally, this case is subject to Rule 7 Mandatory Appeal, and the delay of intervention would prejudice Karyn's appellate rights. For all of these reasons, the Estate's stale attempt to act upon the judgment is equitably barred by the doctrine of laches.

2. Movant has no direct and apparent interest.

10. As set forth above, Edna had no direct or apparent interest in this partition case initiated in 2010 or she could have filed to intervene in 2014 or attached the partitioned property under her rights at the time.

3. Movant's interest would not suffer if denied intervention.

11. As set forth above, the Estate has no interest properly before the Court. To the extent it otherwise would have had an interest, it has already suffered from its own inaction.

Homestead

12. Even if the Court were otherwise inclined to grant intervention, the attachment sought is futile. The funds held by this Court are subject to Karyn's homestead exemption of \$120,000.00. RSA 480:1. Where the exemption far exceeds the amount of attachment sought, attachment is futile.

Jury Trial

13. Should the court grant the Motion to Intervene, Defendant requests a jury trial on the Estate's claim and counterclaim to be filed, as is her right.

Counterclaim

14. To the extent that the Estate is permitted to intervene, its claim is subject to a counterclaim for various tortious and wrongful conduct and would require extensive litigation. Again, where these issues have no relation to the subject matter of this action, intervention is improper. Moreover, the amount of the counterclaim exceeds the amount of the attachment sought.

Attachment is improper.

15. For the same reasons stated above as to why intervention is improper, the Estate cannot demonstrate a reasonable likelihood of recovery to support the requested attachment. Thus, the Motion for Ex Parte Attachment should also be denied.

Conclusion

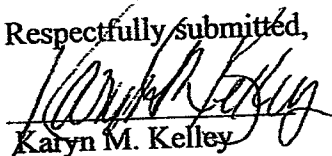
16. Intervention and attachment is improper and time-barred. Substantively, the Estate waived and/or is estopped from claiming the judgment. Alternatively, the Estate is equitably barred from pursuing the judgment. Edna never attempted or intended to execute or collect on the judgment, which was clearly shown when she failed to intervene or attach in 2014. Edna and the Estate "slept on their rights," and, as a result of this delay, circumstances have changed, witnesses or evidence may have been lost or no longer available, etc, such that intervention to execute the stale judgment is not a just resolution. Equity aids the vigilant, not those who sleep on their rights. Edna and the Estate allowed the judgment to lapse, failing to execute for six years. When a judgment lapses or becomes dormant, the creditor can no longer legally enforce it. Regardless, the funds held by the court were from the sale of Karyn's homestead, and the homestead exemption far exceeds the attachment amount, rendering the attempted intervention and attachment futile.

WHEREFORE, The Defendant respectfully requests that this Honorable Court:

- A. Deny Kevin M. Kelley's Motion to Intervene;
- B. Deny Kevin M. Kelley's Motion for Ex Parte Attachment; and
- C. Grant such other relief as is just and equitable.

Date: October 15, 2020

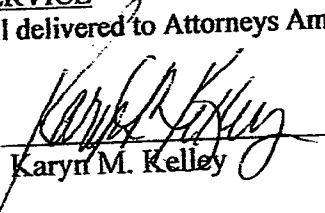
Respectfully submitted,


Karyn M. Kelley
62 Indian Rock Rd
Merrimack NH 03054
603-820-2664

CERTIFICATE OF SERVICE

I hereby certify that copies have been sent first class mail delivered to Attorneys Amann & Proctor.

Date: 10/15/20


Karyn M. Kelley

This filing was prepared with the assistance of a New Hampshire attorney.

PURSUANT TO G. L. c. 190B, § 3-1201

ES17P3683EA

Probate and Family Court

EXHIBIT A

First Name

Middle Name

Last Name

Division

Date of Death: December 5, 2017

First Name

Middle Name

Last Name

Name _____

(Address)

(Apt. Unit, No. etc.)

(City/Town)

(State)

(Zip)

First Name

M.I.

Last Name

(Address)

(Apt, Unit, No. etc.)

(City/Town)

(State)

(Zip)

(Address)

(Apt, Unit, No. etc.)

(City/Town)

(State)

(Zip)

The Petitioner's interest in the estate is as follows (e.g., Personal Representative named in a will, surviving spouse, heir, devisee, etc. See G. L. c. 190B, §§ 3-1201, 1-201(24)): Personal Representative named in a will

7. The probate estate consists entirely of personal property and the total value of all personal property owned by the Decedent and subject to disposition by will or intestate succession at the time of the Decedent's death does not exceed \$25,000.00, exclusive of one motor vehicle.

H-8

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Estate of: <u>Edna</u> <u>V.</u> <u>Kelley</u> First Name Middle Name Last Name	Docket No. ES17P3683EA
--	----------------------------------

8. A schedule of every asset of the probate estate and the estimated value of each is as follows:

Description of Property		Estimated Value
Motor vehicle make, model, VIN:	N/A	n/a
Furniture		\$440.00
Kitchen Items		\$120.00
Jewelry		\$100.00
Nicknacks		\$200.00
Total:		\$860.00

9. The following are the names and addresses of all persons who, with the deceased, were joint owners of property. Also listed are the names and addresses of those who would take in the case of intestacy and the names and addresses of those persons and/or charities who would take as devisees under the provisions of any will.

Name	Address	Interest
Kevin M. Kelley	57 Argilla Road, Ipswich, MA 01938	<input checked="" type="checkbox"/> Heir <input type="checkbox"/> Devisee <input checked="" type="checkbox"/> Joint Owner
Ronald A. Kelley	3 Edgeworth Road, Wilmington, MA 01887	<input checked="" type="checkbox"/> Heir <input type="checkbox"/> Devisee <input type="checkbox"/> Joint Owner
Richard W. Kelley, Jr.	Deceased	<input checked="" type="checkbox"/> Heir <input type="checkbox"/> Devisee <input type="checkbox"/> Joint Owner
Richard J. Kelley	158 Empire Terrace, Sebastian, FL 32958 (Surviving descendant of predeceased child, Richard W. Kelley, Jr.)	<input checked="" type="checkbox"/> Heir <input type="checkbox"/> Devisee <input type="checkbox"/> Joint Owner
Karyn M. Kelley	62 Indian Rock Road, Merrimack, NH 03054 (Excluded from Will)	<input checked="" type="checkbox"/> Heir <input type="checkbox"/> Devisee <input type="checkbox"/> Joint Owner

10. No petition is pending or has been granted in any jurisdiction. The undersigned understands that I/we are answerable and accountable to any subsequently appointed Personal Representative of the estate or any other person having superior right to the estate.

11. The undersigned will act as a Voluntary Personal Representative of the probate estate of the deceased and will administer the same according to law, and apply assets of the probate estate to those persons entitled as creditors, heirs, devisees under any will, and otherwise in accordance with G. L. c. 190B, § 3-1201.

Estate of:

Edna
First Name

V.
Middle Name

Kelley
Last Name

Docket No.

ES17P3683EA

SIGNED UNDER THE PENALTIES OF PERJURY

I certify under the penalties of perjury that the foregoing statements are true to the best of my knowledge and belief.

Date: January 8, 2018

Kevin M. Kelley
Signature of Petitioner

Information on Attorney for Petitioner, if any

Signature of Attorney

(Print name)

(Address)

(Apt, Unit, No. etc.)

(City/Town)

(State)

(Zip)

Primary Phone #: _____

B.B.O. # _____

Email: _____

(Do Not Write Below This Line-For Court Use Only)

CERTIFICATION

As Register of Probate having the care and custody of the records pertaining to this court, I certify that the preceding document a true, exact, complete and unaltered copy of the Statement of Voluntary Administration filed with this court.

Date _____

Register of Probate

**LAST WILL AND TESTAMENT OF
EDNA V. KELLEY**

I, Edna V. Kelley, residing at 57 Argilla Road, Ipswich, Essex County, Massachusetts 01938, make this my Last Will and Testament and revoke all wills and codicils previously made by me.

ARTICLE I. DEBTS OF ESTATE

I direct my Personal Representative to pay all of my just debts and expenses as soon as may be practicable after the time of my decease.

ARTICLE II. TANGIBLE PERSONAL PROPERTY MEMORANDUM

I may leave a written memorandum stating my wishes or views with respect to the distribution of certain articles of tangible personal property. I request that such a memorandum be considered by my Personal Representative in the distribution of my Estate.

ARTICLE III. TANGIBLE PERSONAL PROPERTY NOT IN MEMORANDUM

All of my other articles of tangible personal property not otherwise disposed of pursuant to Article III, I leave to my sons, Richard Kelley, Ronald Kelley and Kevin Kelley, equally.

ARTICLE IV. DISPOSITION OF RESIDUE

I give the rest and residue of my estate to my sons, Richard Kelley, Ronald Kelley and Kevin Kelley, equally.

ARTICLE V. DISINHERITANCE AND NEGATIVE WILL

I intentionally omit my daughter, Karyn Kelley from the provisions of my Will.

ARTICLE VI. PAYMENT OF DEATH TAXES

I direct that all estate and inheritance taxes occasioned by my death shall be paid from the residue of my estate as an expense of administration with no right of reimbursement from anyone.

ARTICLE VII. PERSONAL REPRESENTATIVE

I nominate my son, Kevin Kelley, as Personal Representative of my Will. If Kevin Kelley is unwilling or unable to serve as Personal Representative of my Will, I nominate my son, Ronald Kelley.

Any Personal Representative named in this Will shall also serve as Temporary Personal Representative upon application to the Probate Court.

ARTICLE VIII. PERSONAL REPRESENTATIVE'S POWERS

My Personal Representative, in addition to and not in limitation of all common law and statutory powers, shall have the following powers, without order or license of any court:

- (1) to retain, without liability any assets owned by me at the time of my death, the period of such retention to lie in my Personal Representative's discretion; and to acquire by purchase or otherwise, and to retain for whatever period my Personal Representative shall deem proper, any property, real or personal, at such times and in such amounts as my Personal Representative shall determine;
- (2) to sell, lease, or give options to purchase any property of my estate, real or personal, at public or private sale, for such consideration and upon such terms (including credit) as my Personal Representative determine;
- (3) to vote, in person or by general or limited proxy, or to refrain from voting, any shares of stock held in my estate;
- (4) to pay, arbitrate, compromise, settle, or otherwise adjust any claims which may be asserted in favor of or against my estate, and any taxes which may become due and payable by reason of my death;
- (5) to join with my spouse in filing joint federal and state income tax returns for any period for which such returns may be permitted, and to determine as between my estate and my spouse how any liability for taxes or refunds shall be apportioned;
- (6) to make such elections under the tax laws as my Personal Representative shall deem appropriate, including elections with respect to qualified terminable interest property,

exemptions, and the use of deductions as income tax or estate tax deductions, and to determine whether to make any adjustments between income and principal on account of any election so made;

- (7) to borrow money, with or without security, for any purpose of the estate, on such terms as my Personal Representative shall deem appropriate, and to mortgage or pledge property of the estate for the purpose of securing any loan;
- (8) to employ investment advisors, legal counsel, tax advisors, accountants, custodians and other agents; to determine whether or not to act on their advice; and to pay them reasonable compensations as an expense of the estate;
- (9) to hold any asset of the estate in bearer form or in the name of a nominee without any indication of fiduciary capacity; and to deposit securities in a securities depository within or outside the Commonwealth of Massachusetts; and
- (10) to make distributions in cash or in kind (including non-pro rata distributions of undivided interests in property), at such values as my Personal Representative shall determine; to make any income tax elections concerning in-kind distributions, and in making such distributions the Personal Representative may allocate assets to a particular beneficiary without regard to the basis of such assets.

Nothing in Article VIII of this Last Will and Testament shall serve to narrow the authority given to the Personal Representative pursuant to Massachusetts Prudent Investor Act of 1998 (M.G.L. c. 203C), as may be amended from time to time.

ARTICLE IX. GENERAL PROVISIONS

The following provisions shall govern the administration of my estate under this Will:

(1) Guardian Ad Litem

I request that to the extent permitted by law there be no appointment of a Guardian Ad Litem in connection with the allowance of the accounts of any fiduciary.

(2) Survivorship of Beneficiaries

If any beneficiary fails to survive me by thirty (30) days, any bequest to that beneficiary shall pass as though the beneficiary had predeceased me.

(3) **Fiduciary Bonds**

I direct that any Personal Representative or guardian appointed by this Will be excused from giving bond or from giving surety on any bond required by law.

(4) **Limitations on Personal Representative's Liability**

The judgment and actions of my Personal Representative shall be final and conclusive, and in the absence of bad faith, no beneficiary or other person shall have any right to object to any decision or action taken by my Personal Representative.

(5) **Compensation**

The Personal Representative shall be entitled to reasonable compensation.

(6) **Digital Assets**

My Estate shall own all rights I may have in any digital assets. I grant to my Personal Representative complete access to all of my accounts and direct any provider or institution to furnish and or change passwords to any account as necessary to allow my Personal Representative access.

ARTICLE XI. DUPLICATE ORIGINAL CLAUSE

The original of this document will be kept by Edna V. Kelley and a duplicate original will be kept by AndoverLaw, P.C. whose office is currently located at One Elm Square, Andover, Massachusetts 01810. This Will shall be revoked only by cancellation of both originals or by execution of a subsequent will. Either original may be accepted for probate without the other.

I, Edna V. Kelley, the testatrix, sign my name to this instrument this 30th day of September, 2014, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Edna V. Kelley

Edna V. Kelley

We, T. Michael Sullivan and Heidi Blanchet, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the

testatrix signs and executes this instrument as her will and that she signs it willingly, and that each of us, in the presence and hearing of the testatrix. hereby signs this Will as witness to the testatrix's signing, and that to the best of our knowledge the testatrix is 18 years of age or older, of sound mind, and under no constraint or undue influence.

[Signature]
(Witness)

residing at

223 Belmont Street

T. Michael Sullivan
(Print Name)

Salem MA 01970

[Signature]
(Witness)

residing at

1 14th Ave

Heidi Blomquist
(Print Name)

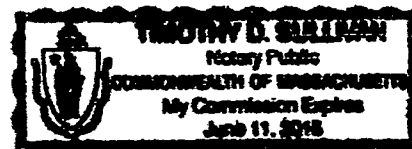
Haverhill, MA 01830

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

Subscribed, sworn to and acknowledge before me by Edna V. Kelley, the testatrix, and subscribed and sworn before me T. Michael Sullivan and Heidi Blomquist, the witnesses, this 20 day of September, 2014.

[Signature]
Notary Public



I, Edna V. Kelley, pursuant to my Last Will and Testament dated September 30, 2014 do hereby declare that pursuant to ARTICLE II. TANGIBLE PERSONAL PROPERTY MEMORANDUM which states that I may leave a written memorandum stating my wishes or views with respect to the distribution of certain articles of tangible personal property hereby state that I wish to leave ALL tangible personal property including but not limited to my furniture, clothing, jewelry, art, writings and household goods to my sons Richard Kelley, Ronald Kelley and Kevin Kelley, equally, with the exception of two pieces of my furniture which were inherited: (1) my mother's antique foot-pedaled sewing machine and (2) my mother-in-law's antique Victrola, all 78rpm boxed albums and record cleaner, which I wish to be left solely to my son, Kevin Kelley.

As of this date, the specified items noted above, i.e., the sewing machine, Victrola, boxed 78 rpm albums and record cleaner, are wrongfully in the possession of my daughter, Karyn Kelley, who has failed to return them to me, despite several Court Orders to do so; the most recent of which is dated November 17, 2014. I had previously planned to leave the Victrola to my daughter, Karyn Kelley, upon my death, and have since changed my mind because she has treated me horribly and has intentionally and willfully made my life miserable in many ways, including taking the aforementioned items from my home without authority and without my permission. Pursuant to ARTICLE V. DISINHERITANCE AND NEGATIVE WILL, I have intentionally omitted my daughter, Karyn Kelley from the provisions of my Will. This includes the noted antique items I have listed in this paragraph that she has refused to return to me as of this writing, as well as ANY tangible or intangible property that I may have at the time of my death. Should these items noted above NOT be returned to me as ordered by the Court and should they continue to remain in the possession of my daughter, Karyn Kelley, at the time of my death, I request that my son, Kevin Kelley, pursue all available legal measures to return them to him as the part of my estate that I intend to leave solely to him. In the alternative, I request that my son, Kevin Kelley, seek all available legal remedies to collect the dollar value of all of these items determined by the current market value at the time of my death and that these monies become solely the property of my son, Kevin Kelley.


I, Edna V. Kelley, sign my name to this instrument this 3rd day of December 2014 and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as a MEMORANDUM as specified by my Will and that I sign it willingly, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.


Edna V. Kelley

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

Subscribed, sworn to and acknowledge before me by Edna V. Kelley this 3rd day of December 2014.


Notary Public
My Comm. Exp. August 13, 2021

H-16

APPENDIX I

10-1-20

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Northern District
300 Chestnut Street
Manchester NH 03101

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

October 01, 2020

**KARYN KELLEY
PO BOX 1706
MERRIMACK NH 03054**

Case Name: **Mary Feeney v. Karyn Kelley**
Case Number: **216-2010-EQ-00193 216-2010-EQ-00191; 216-2015-CV-00249**

You are hereby notified that on October 01, 2020, the following order was entered:

RE: MOTION FOR EX PARTE ATTACHMENT:

"Kevin M. Kelley has filed a Motion to Intervene and a motion for an Ex Parte Attachment. As the funds are held by the Court, there is no danger that the funds will be transferred. Accordingly, Kevin M. Kelley is directed to provide all parties with a copy of the Ex Parte Motion and Karyn Kelley will have until October 15, 2020 to file an objection to all motions filed by Kevin Kelley." (Anderson, J.)

W. Michael Scanlon
Clerk of Court

(923)

C: Daniel C. Proctor, ESQ; William J. Amann, ESQ

I-1

APPENDIX J

BOND <input checked="" type="checkbox"/> Without sureties <input type="checkbox"/> With personal sureties <input type="checkbox"/> With corporate surety Bond #: _____		Docket No. ES17P3683EA	Commonwealth of Massachusetts The Trial Court Probate and Family Court
In the Interests of: <div style="display: flex; justify-content: space-around;"> <div>Edna <small>First Name</small></div> <div>V. <small>Middle Name</small></div> <div>Kelley <small>Last Name</small></div> </div>		Essex Division	
Incapacitated Person/Protected Person/Ward/Decedent/Trust			

The condition of this bond is the faithful discharge by the fiduciary of all duties according to law (for Public Administrators see G. L. c. 194, § 2). By executing this bond, a Personal Representative or Trustee submits personally to the jurisdiction of any court of the Commonwealth in any proceeding pertaining to the estate that may be instituted by any interested person. By executing this Bond, any other fiduciary submits personally to the jurisdiction of the Court which issued the Letters of Appointment. This bond is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

Estimated Value of Real Estate \$0.00 Estimated Value of Personal Estate \$860.00

Penal Sum of Bond (if applicable) _____

1. Fiduciary Name: Kevin M. Kelley
First Name M.I. Last Name

57 Argilla Road Ipswich MA 01938
(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: (978) 356-0111

The undersigned fiduciary accepts appointment as Personal Representative
 and stand(s) personally bound to the First Justice of said Court and his or her successors as obligee for the benefit of the persons interested in the estate and declare(s) the above estimates to be true and accurate to the best of his/her knowledge and belief.

Date October 30, 2018

Kelley M. Kelley
 Signature of Fiduciary

In the Interests of: <u>Edna</u> <u>V.</u> <u>Kelley</u> <div style="display: flex; justify-content: space-between; font-size: small;"> First Name Middle Name Last Name </div>	Docket No. ES17P3683EA
---	----------------------------------

Persons who sign as sureties may be individually or collectively liable in the amount of the penal sum listed on page 1 for losses caused by improper administration of the estate by the fiduciary. By executing this Bond, we, the sureties, consent personally to the jurisdiction of this Court in any proceedings pertaining to fiduciary duties and naming the surety as a party.

Complete the following section if the bond is with personal surety.

Name: _____

First Name
Middle Name
Last Name

_____ (Address Line)
_____ (Apt, Unit, No. etc.)

_____ (City/Town), Massachusetts
_____ (Zip)
Primary Phone #: _____

By signing this document I hereby certify under the penalties of perjury that I am a Massachusetts resident and that I possess sufficient unencumbered assets located in Massachusetts in excess of the penal sum.

Date _____ Signature _____

Name: _____

First Name
Middle Name
Last Name

_____ (Address Line)
_____ (Apt, Unit, No. etc.)

_____ (City/Town), Massachusetts
_____ (Zip)
Primary Phone #: _____

By signing this document I hereby certify under the penalties of perjury that I am a Massachusetts resident and that I possess sufficient unencumbered assets located in Massachusetts in excess of the penal sum.

Date _____ Signature _____

Complete the following section if the bond is with corporate surety.

Bond #: _____ Penal Sum of Bond: _____

We, the undersigned surety company, a corporation duly organized by law under the state of _____
 and having a usual place of business in Massachusetts at: _____

(Address)

_____ stand bound as surety in the aforesaid penal sum.

_____ by _____

Corporate Surety (name)
Signature and Title

FOR COURT USE ONLY

ESSIX 140, ss 10/17/19 examined and ☒ approved
Date

Justice Assistant Judicial Case Manager Assistant Register Magistrate
 of the Probate and Family Court

J-2

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

KARYN M. KELLEY,

Petitioner,

v.

KEVIN M. KELLEY,

Respondent / Intervenor,

PROOF OF SERVICE

I, Karyn M. Kelley, do swear or declare that on this date, February 1, 2024, as required by Supreme Court Rule 29 I have served the enclosed Motion For Leave To Proceed In Forma Pauperis and Petition For A Writ Of Certiorari on Respondent's counsel, Attorney William J. Amann, 757 Chestnut Street, Manchester, NH 03104. I declare under penalty of perjury that the foregoing is true and correct.

February 1, 2024


Karyn M. Kelley

Pro Se Petitioner

P. O. Box 1706

Merrimack NH 03054

(603) 820-2664

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

KARYN M. KELLEY,

Petitioner,

v.

KEVIN M. KELLEY,

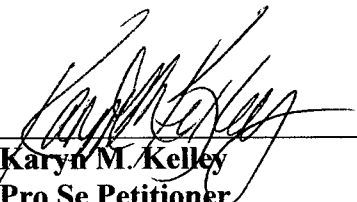
Intervenor / Respondent,

**VERIFIED
CERTIFICATE OF COMPLIANCE**

As required by Supreme Court Rule 33.1(h), I, Karyn M. Kelley, certify that the Petition For Writ Of Certiorari contains 7404 words, excluding the parts of the Petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

February 1, 2024.


Karyn M. Kelley
Pro Se Petitioner
P. O. Box 1706
Merrimack NH 03054
(603) 820-2664