

**MAINE SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT**

---

**Law Court Docket No. Yor-25-135**

---

**THOMAS BOYD**  
*Plaintiff/Cross-Appellant*

**v.**

**KELLY J. BOYD**  
*Defendant/Appellant*

On appeal from the Biddeford District Court

---

***Reply Brief of Cross-Appellant, Thomas Boyd***

Michelle R. King, Esq.  
*Attorney for Thomas Boyd*

King Law, LLC  
52 Center St., 2<sup>nd</sup> Fl.  
Portland, ME 04101  
[mking@kinglaw-me.com](mailto:mking@kinglaw-me.com)

October 13, 2025

## TABLE OF CONTENTS

Table of Contents.....	2
Table of Authorities.....	3
Argument.....	4
I. THE TRIAL COURT’S MISAPPLICATION OF THE LAW AS TO THE MARITAL PORTION OF THE [REDACTED] [REDACTED] PROPERTY, RESULTING IN A \$55,262.00 LOSS OF NON-MARITAL PROPERTY TO THOMAS, WAS NOT HARMLESS ERROR.....	4
II. THE JUDGMENT EQUALLY DIVIDING THE PARTIES’ PROPERTY MUST BE VACATED ON THE LIMITED ISSUE OF RECALCULATION OF ASSETS/DEBTS.....	5
III. THE MISCALCULATIONS MADE BY THE TRIAL COURT REQUIRE THAT THE JUDGMENT BE VACATED AND A NEW JUDGMENT ISSUED THAT IS CONSISTENT WITH AN EQUAL DISTRIBUTION OF ASSETS AND DEBTS.....	8
Conclusion.....	10
Certificate of Service.....	11

## **TABLE OF AUTHORITIES**

### **Maine Cases:**

<i>First Fin. Inc. v. Morrison</i> , 2019 ME 96, ¶ 14, 210 A.3d 811, 814.....	8
<i>Lesko v. Stanislaw</i> , 2014 ME 3, ¶ 7, 86 A.3d 14, 18.....	8
<i>Miliano v. Miliano</i> , 2012 ME 100, ¶ 14, 50 A.3d 534.....	6, 7
<i>Seeley v. Short</i> , 2025 ME 53, ¶ 6, 339 A.3d 792, 794.....	5
<i>Sewall v. Saritvanich</i> , 1999 ME 46, ¶ 19, 726 A.2d 224, 228–29.....	7
<i>Shirley v. Shirley</i> , 482 A.2d 845, 850 (Me. 1984).....	9
<i>Williams v. Williams</i> , 645 A.2d 1118, 1120 (Me 1994).....	8

### **Statutes:**

19-A M.R.S. § 951-A.....	6
--------------------------	---

### **Rules:**

M.R. App. P. 8.....	8
---------------------	---

## ARGUMENT

### **I. THE TRIAL COURT’S MISAPPLICATION OF THE LAW AS TO THE MARITAL PORTION OF THE [REDACTED] PROPERTY, RESULTING IN A \$55,262.00 LOSS OF NON-MARITAL PROPERTY TO THOMAS, WAS NOT HARMLESS ERROR.**

Because the trial court erred by including interest payments that did not reduce the mortgage balance in determining the marital portion of the [REDACTED] Property, this Court should vacate that portion of the judgment with instructions to enter a corrected judgment.

Citing no case law whatsoever regarding the harmless error standard or how it applies in the present case, the Appellant claims that the lower court’s “presumed error” was harmless by incorrectly stating that the lower court did not consider the \$46,200.00 invested into the house for repairs during the marriage when determining the marital component of the house. [App. Rep. Br. at 4-5]. According to the Appellant’s claim, the \$46,200.00 “factors out” the error made by including interest payments in the marital portion of the [REDACTED] property and is therefore harmless. [*Id.*]. To the contrary, the trial court specifically addressed the \$46,200.00 when determining the marital component of the [REDACTED] property.

Specifically, the trial court determined that \$46,200.00 spent on materials to improve the property, which Thomas claimed were his funds, were marital funds even though the funds were earned by Thomas. [RA 31]. The court also found that “sweat equity” exerted during the marriage is marital effort. [*Id.*]. In determining the marital portion of the [REDACTED] property, the trial court determined that the

property had increased in value by \$140,000.00 during the marriage due to those marital funds and marital effort. [RA 35]. The court’s finding that this resulting increase in the value of [REDACTED] was marital property, therefore specifically contemplated the \$46,200.00 of marital funds spent for repairs. [*Id.*]. Thus, this amount does not cancel out the error made by the trial court in including interest payments made on the [REDACTED] property as marital property, and this Court must vacate that portion of the judgment and order that a corrected judgment issue. *See Seeley v. Short*, 2025 ME 53, ¶ 6, 339 A.3d 792, 794.

## **II. THE JUDGMENT EQUALLY DIVIDING THE PARTIES’ PROPERTY MUST BE VACATED ON THE LIMITED ISSUE OF RECALCULATION OF ASSETS/DEBTS.**

Because the trial court made multiple errors when calculating the assets/debts of the marital property, this Court must vacate that portion of the judgment and require the trial court to issue a corrected judgment in alignment with the findings previously made.

Appellant seemingly concedes that the trial court concluded that an equal distribution of property was equitable in this case, [App. Rep. Br. at 5], but argues that if this Court orders a corrected judgment, spousal support and attorney’s fees should be reconsidered due to the increase in non-marital property owed to Thomas. [App. Rep. Br. 6]. “A divorce court has no discretion to ameliorate what it views as an unfair overall result through its distribution of non-marital property—such property is simply “not subject to the court's [general] equitable powers of

distribution.” *Miliano v. Miliano*, 2012 ME 100, ¶ 16, 50 A.3d 534, 540. Thus, the fact that Thomas is owed an increased amount of non-marital property has no impact on the trial court’s findings and decision to equally divide the marital property. The trial court’s decision that each party is responsible for their own attorney’s fees perfectly aligns with the judgment equally dividing the marital property.

Furthermore, the trial court did not order spousal support in this case, because such an award was contrary to the spousal support statute that provides “a rebuttable presumption that general support may not be awarded if the parties were married for less than 10 years as of the date of the filing of the action for divorce.” 19-A M.R.S. § 951-A(2)(1). The trial court determined that neither party was entitled to spousal support due to the length of the marriage, which was under ten years. [RA 43].<sup>1</sup> In her Motion for Conclusions of Law and Findings of Fact, the Appellant proposed a finding that she had rebutted the presumption against general spousal support. [RA 86]. That proposal was soundly rejected by the trial court [RA 56], and the Appellant did not appeal that issue in her Opening Brief, nor does she now claim that the finding relating to the length of marriage is in error. Consequently, she has waived that issue.

Finally, the case cited by Appellant for the proposition that the trial court can reconsider alimony and attorney’s fees when recalculating the non-marital/marital property on remand, is inapposite. In *Miliano*, 2012 ME 100, this Court remanded the case back to the trial court for a determination of the marital and non-marital

---

<sup>1</sup> The parties were married on June 20, 2012, in St. Croix, U.S. Virgin Islands. [RA 63; Tr. Vol. II: 56, 69]. Thomas filed his Complaint for Divorce on June 22, 2021. [RA 66].

property and spousal support because there was insufficient evidence before the trial court for an order on the allocation of marital and non-marital property. *Id.* ¶ 26. As a consequence, the relationship between the distribution of property and the spousal support—that the court could have ordered but for the property award—was a valid consideration on remand. *Id.* ¶ 27. Here, all of the values necessary for the distribution of the non-marital and marital property were before the trial court and the court made the requisite findings to support the distribution of the assets. The court further made a finding that the length of the marriage *precluded* an award of spousal support. [RA 43]. The trial court clearly favored an equal distribution—a point not disputed by the Appellant. All that remains is the trial court’s misapplication of the law as to the marital component of the [REDACTED] property and other miscalculations noted below. Therefore, this Court should vacate that portion of the judgment and order a corrected judgment issue in accordance with *Sewall v. Saritvanich*, 1999 ME 46, ¶ 19, 726 A.2d 224, 228–29 (*quoting Williams v. Williams*, 645 A.2d 1118, 1120 (Me 1994)) (“For mortgage payments to generate marital property the payments must actually reduce the mortgage balance.”).

### **III. THE MISCALCULATIONS MADE BY THE TRIAL COURT REQUIRE THAT THE JUDGMENT BE VACATED AND A NEW JUDGMENT ISSUED THAT IS CONSISTENT WITH AN EQUAL DISTRIBUTION OF ASSETS AND DEBTS.**

Because the Appellant concedes that the trial court’s intent was an equal distribution of the parties’ assets and debts, [App. Rep. Br. at 5], this Court should

vacate the judgment and order the trial court to issue a new judgment consistent with the applicable law. *See Lesko v. Stanislaw*, 2014 ME 3, ¶ 7, 86 A.3d 14, 18 & n. 2.

The Appellant first claims that the values set forth by Thomas in the table on page 23 of his brief are inaccurate and do not accurately represent the findings of the trial court. [App. Rep. Br. at 8]. The Appellant is incorrect.

First, the \$20,000.00 value of the timeshare as set forth by the trial court in Attachment A of the Judgment, [RA 45], is fully supported in the record. [RA 160, Plaintiff's Financial Statement].<sup>2</sup> The trial court determined that Thomas was responsible for the outstanding timeshare maintenance fees for 2024 in the amount of \$1,243, and that the timeshare shall be sold with the net proceeds split equally—hence, \$10,000.00 to each party, or half of the net sale. Although half of the net sale may not eventually equal \$10,000.00 to each party, the trial court was correct to use the estimated value of the property in determining the value that each party received. *Shirley v. Shirley*, 482 A.2d 845, 850 (Me. 1984) (value of property that has support in the record cannot “be altered or overturned merely because an alternate finding would also have support in the evidence”). Ultimately, it does not matter whether the trial court placed a value of \$20,000.00 on the timeshare or some other number,

---

<sup>2</sup> The Appellant did not include her own Financial Statement in the Record Appendix as required by M.R. App. P. 8 (“the financial statements of the parties, if property distribution” is at issue, are mandatory). However, in her Motion for Conclusions of Law and Findings of Fact, the Appellant states that she “does not dispute the Court’s findings or conclusions as they pertain to the assets, their value, or their ultimate allocation.” [RA 73]. The Appellant simply disputed the trial court’s math. [RA 73]. She cannot now dispute values and findings that she did not dispute in the lower court. *First Fin. Inc. v. Morrison*, 2019 ME 96, ¶ 14, 210 A.3d 811, 814.



because each side is to receive 50% of the net proceeds. The error occurred when the trial judge assigned the full value to Thomas's column of assets when he was clearly only allocated half of the value in the judgment. For that reason, the Judgment must be recalculated. [RA 37, 45].

The Appellant next claims that the trial court's findings and division of debts did not properly address the tax bill of \$7,078.00 and car insurance payments of \$8,280.00, which she claims she paid in full. [App. Rep. Br. at 8]. In its Judgment, the trial court ordered that "[E]ach Party shall be responsible for any debt in their name alone." [RA 42]. The court carefully outlined that Appellant's debt had increased from \$6,053.00 in September 2022 to \$20,484, fifteen months later. [RA 32]. By Appellant's own admission in her Motion for Conclusions of Law and Findings of Fact, that exact increase in her personal credit card debt resulted from property taxes and car insurance expenses. [RA 75]. As a consequence, pursuant to the Judgment, Appellant was solely responsible for these expenses because they were debts in her name alone. [RA 42]. Nevertheless, half of the expense for the real estate taxes was allocated to Thomas in the property distribution. [RA 46]. In this regard, Appellant received less in the allocation of debts because half of the property tax expense was assigned to Thomas even though the court ordered that Appellant pay the full amount. If anything, that amount should be deducted from Thomas' column.

Again, these errors are mere calculation mistakes that can be remedied without any reconsideration of attorney's fees, spousal support, or reallocation of

assets/debts because, as the Appellant agrees, [RA73], the findings as to assets and debts are all fully supported in the record and the trial court indisputably intended an equal distribution of marital property. Therefore, this Court should vacate the Judgment and order the lower court enter a judgment with correct calculations consistent with its findings.

### **CONCLUSION**

For the foregoing reasons, this Court should vacate the lower court's decision and order the lower court enter a judgment with correct calculations consistent with its findings and an equal distribution of property.

Date: October 13, 2025

/s/ Michelle R. King, Esq.

Michelle R. King, Bar No. ~ 6418  
*Attorney for Plaintiff/Cross-Appellant,  
Thomas Boyd*

King Law, LLC  
52 Center St., 2<sup>nd</sup> Fl.  
Portland, ME 04101  
[mking@kinglaw-me.com](mailto:mking@kinglaw-me.com)

## CERTIFICATE OF SERVICE

I, Michelle R. King, attorney for Thomas Boyd, hereby certify that on this date I made service of the foregoing Cross-Appellant's Reply Brief, by email and U.S. mail, to the following counsel:

Peter J. Cyr, Esq.  
Law Offices of Peter J. Cyr  
85 Brackett Street  
Portland ME 04102  
[heather@peterjcyrlaw.com](mailto:heather@peterjcyrlaw.com)

Date: October 13, 2025

/s/ Michelle R. King, Esq.

Michelle R. King, Bar No. ~ 6418  
*Attorney for Plaintiff/Cross-Appellant,  
Thomas Boyd*

King Law, LLC  
52 Center St., 2<sup>nd</sup> Fl.  
Portland, ME 04101  
[mking@kinglaw-me.com](mailto:mking@kinglaw-me.com)