STATE OF MAINE

SUPREME JUDICIAL COURT

SITTING AS THE LAW COURT

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LAW COURT DOCKET NO. SOM-25-264

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AMY B. BEEM.

Plaintiff-Appellant,

v.

NANCY M. TEMPLE

Defendant-Appellee.

On Appeal from the Superior Court
Civil Docket
Somerset County

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# REPLY BY APPELLANT, AMY B. BEEM TO APPELLEE NANCY M. TEMPLE

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## INTRODUCTION

The issue on appeal is whether this Appellant's injuries resulted from the "inherent risks of equine activity" as opposed to a separate negligent cause (here, a negligently driven UTV). The question is inextricably fact-laden and not amenable to summary judgment.

Appellee chiefly argues that the record contains no factual dispute over whether Appellant's injuries were caused by the "inherent risks" of equine activity, and her claims are thus barred by the unambiguous language of the EAA. Not so. The record is replete with genuine issues of material fact regarding the nature and cause of the event. The trial court acknowledged this explicitly.

Appellees and the trial court erred because they examined EAA immunity as a matter of law instead as a mixed question of fact and law. The EAA does not apply just because someone fell off a horse—the EAA applies only where the injuries stem from the "inherent risks" of equine activities. Determining whether something like a nearby ATV crash is an "inherent risk" of equine activities is a question of fact. Whether the EAA applies is a question of causation and thus a question of fact. Assigning immunity under the EAA without first determining whether its statutory requirements have been met usurps the fact-finder's role in determining whether, if at all, Appellant's injuries were caused by something unrelated to the inherent risks of horse riding.

Summary judgment should be vacated because, as the Superior Court found, there

are remaining issues of material fact regarding Appellee's negligence and causation of Appellant's injuries, and because the Appellee's negligence is not an inherent risk of riding an equine.

## ARGUMENT

### A. The cause of Appellant's injuries—whether by "inherent risk" of equine activity, or by some other source—generates genuine issues of material fact and precludes judgment as a matter of law.

The sole issue on appeal is whether the EAA bars Appellant's claim.

Framing the issue as "[s]hould Defendant's Motion for Summary Judgment alternatively be granted because Plaintiff has failed to establish a prima facie case of negligence?" the trial court explicitly answered in the negative:

> [I]f Plaintiff's claim were not barred, the Court would find that issues of material fact would preclude the Court from entering summary judgment for Defendant on that basis.

*Order on Def.'s Mot. for Summ. J.*, *Beem v. Temple*, No. CV-23-022, ¶ 40 (Me. Super. Ct., Som. Cnty., May 20, 2025); (A. 20).

The Court explained:

> With respect to the remaining elements of negligence [following duty], *the summary judgment record reveals numerous disputes of material fact*, including but not limited to how fast Defendant was traveling shortly before and at the time of the accident, whether Defendant's actions in attempting to avoid colliding with Plaintiff and MacPheters were reasonable, and where exactly Plaintiff and MacPheters were on the road when Defendant encountered them. *These disputes would preclude entry of summary judgment if Plaintiff's claim were not statutorily barred.*

*Id.* ¶ 42 (emphasis added); (A. 20).

Ample record evidence in the Appendix supports this. Among them, in pertinent part on the issue of excessive speed, Defendant testified that despite allegedly driving slowly, she crashed the UTV with sufficient force to eject her therefrom, causing her to suffer three fractured vertebrae, lose consciousness, and require a three-day hospital stay. (Temple Dep. 45:9 – 46:10; A. 142). Appellee testified to facts inconsistent with a low-speed incident, stating that her UTV "cartwheeled" [rolled over end over end] "down the road so it hit every part of the UTV it could hit," all of which was corroborated by photographic exhibits entered during deposition. *Id.*

Under Maine law, a party is entitled to summary judgment when the record, taken in the light most favorable to the nonmoving party, demonstrates the absence of genuine issues of material fact and the moving party would be entitled to judgment as a matter of law at trial. *Boivin v. Somatex, Inc.*, 2022 ME 44, ¶ 10, 279 A.3d 393, 396 (internal citations omitted). The moving party bears the burden of proof. *Toto v. Knowles*, 2021 ME 51, ¶ 9, 216 A.3d 233 (internal citations omitted). The nonmovant bears a reciprocal burden to make out a *prima facie* case and demonstrate the existence of disputed fact. *Id.* A material fact is one that can affect the outcome of the case, and there is a 'genuine issue' when there is sufficient evidence for a fact-finder to choose between competing versions of the fact. *Id.* ¶ 8 (internal citations omitted). "The question of whether a defendant's acts or omissions were the proximate cause of a plaintiff's injuries is generally a question of fact, and a judgment as a matter of law is improper if any reasonable view

of the evidence could sustain a finding of proximate cause." *Houde v. Millett*, 2001 ME 183, ¶ 11, 787 A.2d 757 (internal citations omitted).

Here, the trial court found that, but for application of the EAA, the record generated multiple genuine issues of material fact. *Order on Def.'s Mot. for Summ. J.*, *Beem*, ¶¶ 40, 42 (Me. Super. Ct., Som. Cnty., May 20, 2025); (A. 20). Said differently, if the EAA does not provide immunity, this case should go to a fact-finder.

Appellee's argument that the record shows no disputed facts is thus unavailing. And although the Law Court reviews de *novo* the existence of genuine issues of material fact, it also gives great deference to the factual findings of the trial court. *See Express Scripts Inc v. State Tax Assessor*, 2023 ME 68, ¶ 28, 304 A.3d 239 (*de novo* standard); M.R. Civ. P. 52(a) ("Findings of fact shall not be set aside unless clearly erroneous . . . ."); *Est. of Giguere*, 2024 ME 41, ¶ 15, 315 A.3d 737, 741 (deference absent clear error in probate proceedings); *In re Scott S.*, 2001 ME 114, ¶ 10, 775 A.2d 1144, 1148 (parental rights); *Est. of Kennelly v. Mid Coast Hosp.*, 2020 ME 115, ¶ 12, 239 A.3d 604, 610 (medical malpractice); *Jenkins, Inc. v. Walsh Bros.*, 2001 ME 98, ¶ 13, 776 A.2d 1229, 1235 (internal citations omitted) (contract).

### B. <u>That the EAA applies to any given case as a matter of law depends on whether the injuries resulted from an inherent risk of equine activities. But whether Appellant's injuries resulted from an inherent risk of equine activities is an issue of fact</u>.

Determining whether EAA immunity applies depends specifically on whether Appellant's injuries "*result[ed] from* the inherent risk of equine activities." 7 M.R.S.

§4103-A(1) (emphasis added). The trial court premised its order on finding, as a matter of law, that the EAA "unambiguously provides that participants in equine activities assume the inherent risks of equine activities and bars claims resulting from the inherent risks of equine activities . . . ." *Order on Def.'s Mot. for Summ. J.*, *Beem*, ¶ 34 (Me. Super. Ct., Som. Cnty., May 20, 2025); (A. 18-19). The trial court agreed with Appellee that Appellant's injuries arose from the "inherent risks" of equine activities, ranging from "bucking" and "shying" to "biting" and "stepping on." (Red. Br. 13).

But the trial court—and Appellees here—failed to address one fundamental inquiry: whether *this* Appellant's injuries "result[ed] from" the statutory risks defined. 7 M.R.S. §4103-A(1). And the only way to properly answer that question is by weighing the facts in the record.

First, Appellee's bare assertion that "it cannot be disputed" that Appellant's injuries "resulted from an inherent risk of an equine activity as defined by a statute" is unsupported by the record. (Red Br. 15). Appellee cites as support: (1) the trial court's order; (2) the statute; and (3) portions of Appellant's Answers to Interrogatories. *Id.* The order is the subject of this appeal, interpretation of the statute is at the heart of the inquiry, and the trial court was unmistakable in its ruling: but for the EAA, summary judgment fails. *Order on Def.'s Mot. for Summ. J.*, *Beem*, ¶¶ 40 (Me. Super. Ct., Som. Cnty., May 20, 2025); (A. 20).

The legal question before the Court is thus more accurately stated as: did the trial court misapply Maine law when it summarily concluded that Appellant's injuries were

caused by her participation in equine activities and assumption of the inherent risks thereof? The answer should be 'yes.'

And a review of the court's order shows how it erred:

> Plaintiff argues that whether her injuries resulted from the inherent risks of equine activities is a question of fact not appropriate for resolution on a motion for summary judgment. To the contrary, the *McCandless* Court decided as a matter of law that the plaintiff's injuries in that action resulted from the inherent risks of equine activities because the statute defined "inherent risks of equine activities." *McCandless*, 2019 ME 111, ¶ 19, 211 A.3d 1157. The *McCandless* Court contrasted section 4103-A with a statute creating immunity for ski resorts that did not define the term "risk of the dangers inherent in the sport," explaining that the lack of a statutory definition would create a question of fact as to whether a particular risk was inherent in the sport. *Id.* (citing *Merrill v. Sugarloaf Mountain Corp.*, 1997 ME 180, ¶ 7, 698 A.2d 1042).

*Id.* ¶ 30; (A. 17).

Put simply, the trial court misinterpreted *McCandless*. In *McCandless*, the Court distinguished *Merrill* based on whether the underlying statute defined the risk inherent in an activity; the Court did *not* hold that the existence of a statutorily-defined risk resolved the factual question of whether an inherent risk *or something else* caused the harm. *McCandless v. Ramsey*, 2019 ME 111, ¶ 19, 211 A.3d 1157, 1162.

Instead, the *McCandless* Court stated that its decision was predicated on the existence of a statutorily-defined inherent risk ***and*** the factual record. "Given the particularized definition of the 'inherent risks of equine activities' applicable here, and the legislative history available for purposes of interpreting any ambiguity in the statute,

*we conclude as a matter of law that, on the facts presented on summary judgment*, immunity has attached." *Id.* Emphasis added.

In other words, whether the EAA applies as a matter of law can be determined *only* after the facts have been considered and weighed. As this Court has recognized, factual disputes related to statutory immunity can preclude summary judgment as a matter of law. *See Tolliver v. Dept. of Transp.*, 2008 ME 83, ¶ 10 n.5, 948 A.2d 1223 (recognizing that tort claims immunity was a "question of law subject to de novo review" only where "the facts bearing on . . . entitlement to . . . immunity are not in dispute."). Determining whether immunity under the EAA applies here thus first requires a factual determination on whether a nearby ATV crash is an "inherent risk" of an equine activity. Because the trial court found multiple issues of disputed fact, the factual determination of whether the injuries were caused by an inherent risk of horse riding can be determined only by a factfinder at trial.

This resolution is consistent with how Maine law has been applied under the EAA. In *Zuckerman v. Coastal Camps, Inc.*, the United States District Court for the District of Maine (*Woodcock, J.*) held that summary judgment is inappropriate where the record raises a genuine issue of material fact concerning an exception to immunity under the EAA. ("Here, the statement of material facts precludes the conclusion that Camp Laurel is immune as a matter of law under the Maine Equine Activities Act because there is a question of material fact surrounding whether a statutory exception to liability applies.") *Zuckerman*, 716 F. Supp. 2d 23, 33, n. 5 (D. Me. 2010).

## CONCLUSION

WHEREFORE, there being no basis for summary judgment based on the factual record before the trial court and consistent with application of Maine law treating questions of whether an exception to liability under the EAA might apply as fact-laden, summary judgment is inappropriate. Plaintiff-Appellant seeks a ruling from this Court VACATING the Superior Court's Order granting Summary Judgment for Defendant-Appellee, and remanding to the Superior Court for further proceedings.

Respectfully submitted,

Dated: November 7, 2025

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## CERTIFICATE OF SERVICE

I, Michael T. Bigos, Esq., hereby certify that two copies of the Brief of Appellant Amy B. Beem are being served upon counsel at the addresses set forth below by email and USPS mail delivery on November 7, 2025:

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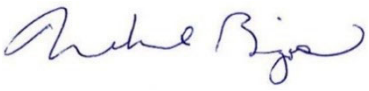

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**CERTIFICATE OF SIGNATURE AND COMPLIANCE**

I am filing the electronic copy of a brief with this certificate. I will file the paper copies as required by M.R. App. P. 7A. I certify that I have prepared (or participated in preparing) the brief and that the brief and associated documents are filed in good faith, conform to the page or word limits set by the Order of this Court (dated July 7, 2025), and conform to the form and formatting requirements of M.R. App. P. 7A(g).

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