

STATE OF VERMONT

SUPERIOR COURT
Orange Unit

CIVIL DIVISION
Case No. 23-CV-02848

JOHN DURKEE, EXECUTOR OF THE
ESTATE OF DECEDENT KENNETH H.
BLAISDELL, JR.,
Plaintiff,

v.

TRINI BRASSARD, COURTNEY BRASSARD,
BRIAN FALZO, DANIEL BRASSARD, AND
BRASSARD SUGARWORKS AND MAPLE
SUPPLY, LLC,
Defendants.

TRINI BRASSARD'S FIRST AMENDED COUNTERCLAIM
FOR ALLOWANCE OF CLAIMS AND DEMAND FOR TRIAL BY JURY

NOW COMES Defendant and Counterclaim Plaintiff, Trini Brassard, by and through her attorneys, Brannen & Loftus, PLLC, and hereby submits her Counterclaims in response to the Complaint filed by Plaintiff and Counterclaim Defendant, John Durkee, Executor of the Estate of Decedent Kenneth H. Blaisdell, Jr.

Parties and Jurisdiction

1. Defendant and Counterclaim Plaintiff, Trini Brassard ("Ms. Brassard"), resides at 2305 Vermont Route 14 North, East Randolph, Orange County, Vermont.
2. The Estate of Kenneth H. Blaisdell, Jr., is an estate opened in the Vermont Superior Court, Orange Probate Division, Case No. 21-PR-04895 (hereinafter, "the Estate"). The Executor of the Estate is Plaintiff and Counterclaim Defendant John Durkee ("the Executor"), who was appointed by the Orange Probate Division on December 14, 2021.

3. Plaintiff and Counterclaim Defendant's Decedent Kenneth H. Blaisdell, Jr. ("Decedent") died on April 10, 2021.
4. The Vermont Superior Court, Orange County Civil Division, has jurisdiction over the parties and case pursuant to 4 V.S.A. § 31 and 14 V.S.A. § 1206¹, and venue is proper because the relevant acts occurred in Orange County, and all involved property is located in Orange County.

Factual Allegations

5. Prior to his death, Decedent was a farmer in East Randolph, Vermont where he operated a business that included the management of both an active farm and gravel pit properties.
6. Decedent suffered a stroke in early July 2013 and shortly thereafter, on July 18, 2013, executed a General Power of Attorney granting Ms. Brassard the authority to conduct his financial affairs.
7. Prior to Ms. Brassard's appointment as Decedent's agent under the power of attorney, Decedent and Ms. Brassard discussed his personal care and the continued operation of his business.
8. Decedent was adamant that he did not want to be placed in a long-term care facility and did not want to see his business sold off in pieces to pay for such care, sentiments he repeatedly expressed during the final years of his life.
9. Ms. Brassard agreed to provide Decedent with the daily care he required and to take on a greater role in the everyday management of Decedent's business to allow for its continued operation.

¹ As discussed below, Ms. Brassard previously asserted her claims against the Estate in the underlying probate matter when she filed her *Petition for Allowance of Claims* with the Orange Probate Unit on March 8, 2022. Plaintiff, through counsel for the Estate, has consented to Ms. Brassard pursuing her claims in the Civil Division in the interests of judicial efficiency and economy.

10. From July 18, 2013, until Decedent's death on April 10, 2021, Ms. Brassard spent substantial time providing both personal care and business management services to the Decedent.
11. During that time, Ms. Brassard and Decedent agreed that Ms. Brassard would temporarily forego compensation for the services that she provided to Decedent, as such compensation would not have been possible without selling business assets critical to the continued operation of the farm, and further agreed that she would be compensated from the assets of Decedent's estate following his death.
12. After Decedent's death on April 10, 2021, Ms. Brassard filed a *Petition to Open a Testate Estate* on August 31, 2021, in the Vermont Superior Court, Orange County Probate Division, requesting that the Court open the Estate, allow a copy of Decedent's Will, and appoint a third-party special administrator to administer the Estate.
13. Plaintiff was appointed as the special administrator of the Estate via the Orange Probate Court's *Letters of Special Administration*, filed November 5, 2021, and was later appointed to serve as the Executor of the Estate via the Probate Court's *Certificate of Appointment of Executor*, filed December 20, 2021.
14. On December 17, 2021, based on her agreement with Decedent to forego payment until after his death, Ms. Brassard filed two (2) written statements of claims in connection with the caregiver and business management services that she provided to Decedent from the time of his stroke in July 2013 – a claim for \$432,000.00 for management services provided to the Decedent from July 14, 2013 to November 6, 2021 (the day after the Probate Division issued the *Letters of Special Administration*), and a claim for

\$425,383.56 for caregiver services provided to Decedent from July 16, 2013, to the date of Decedent's death on April 10, 2021.

15. On January 12, 2022, Plaintiff, through his counsel, provided notice to Ms. Brassard of the disallowance of her two (2) claims.
16. On March 8, 2022, Ms. Brassard filed her *Petition for Allowance of Claims* with the Orange Probate Unit, requesting that the Probate Court allow the two (2) claims, which Petition is still pending in the Probate Court.
17. In light of the filing of Plaintiff's *Complaint* in this matter, Ms. Brassard hereby reasserts her claims for payment from the Estate, pursuant to 14 V.S.A. § 1206, and hereby incorporates by reference and restates the allegations, arguments, and requests for relief asserted in her *Petition for Allowance of Claims*, filed March 8, 2022, *In Re: Estate of Kenneth H. Blaisdell, Jr.*, Vermont Superior Court, Probate Division, Orange Unit, Docket No. 21-PR-04895.
18. Plaintiff, through his counsel, has consented to Ms. Brassard pursuing her claims in the Civil Division in the interests of judicial efficiency and economy, as the facts and legal issues related to Ms. Brassard's claims substantially overlap with those raised by the Estate in its *Complaint*.

COUNT 1 – ALLOWANCE OF CLAIMS
(14 V.S.A. § 1206)

19. Ms. Brassard incorporates herein the allegations set forth in the preceding paragraphs.
20. Pursuant to 14 V.S.A. § 1206, “[e]very claim which is disallowed in whole or in part by the executor...is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the executor...not later than 60 days after the mailing of the notice of disallowance...”

21. Ms. Brassard submitted her two (2) claims to the Executor on December 17, 2021, the two (2) claims were denied by the Executor, through counsel, on January 12, 2022, and Ms. Brassard filed her *Petition for Allowance of Claims* on March 8, 2022, fifty-five (55) days after notice of their denial and within the sixty (60) days provided for by 14 V.S.A. § 1206.

22. The Executor's denial of Ms. Brassard's two (2) claims, submitted pursuant to the agreement established between her and Decedent prior to his death, was a violation of that agreement and an improper exercise of his authority as the Executor.

Demand for Jury Trial

Ms. Brassard demands a trial by jury on all matters so triable as a matter of right.

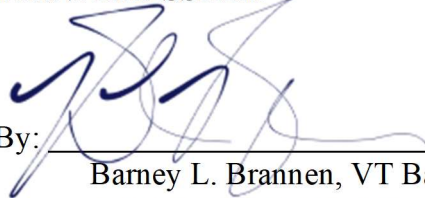
WHEREFORE, Trini Brassard respectfully requests that this Court:

- A. Grant judgment in favor of Ms. Brassard on the Count set forth above, find that the Executor's disallowance of the two (2) claims was improper, and allow Ms. Brassard's claims against the Estate; and
- B. Grant such further relief it deems just and fair under the circumstances.

DATED at Hanover, New Hampshire this 30th day of August, 2023.

Respectfully submitted,

TRINI BRASSARD

By: 

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