

STATE OF MAINE

YORK, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-04-066
PAF-YORK 3/14/2005

JAMES M. DINEEN,

Plaintiff

v.

**ORDER
AND
DECISION**

LeBLANC & YOUNG, P.A. and
RICHARD P. LeBLANC,

Defendants

DOUGLAS L. CATHERSON
JUN 1 2005

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James M. Dineen is the son of the late Rita E. Dineen and he has been embroiled in a lengthy and costly dispute with his sister regarding their mother's estate. The history of a portion of the litigation is found at *Estate of Dineen*, 1998 ME 268, 721 A.2d 185 (Me. 1998).

In the current case Mr. Dineen has filed an amended complaint against the law firm and lawyer who served as the personal representative of the estate of his mother claiming that a payment to his sister's attorney for counsel fees was made prematurely. The Law Court has already determined that the Probate Court's decision to assess legal fees against Mr. Dineen's share of the estate was proper and that the payment of those fees by the personal representative, as part of a partial distribution, was likewise proper.

The defendants in this case have filed a motion to dismiss which will be granted. There was no error committed by the personal representative in paying the legal fees when he did. If the fees were paid a bit prematurely, which they were not, then any early payment was harmless as the decision to assess fees and the amount of the fees

have been affirmed by the Law Court. Additionally, the plaintiff has suffered no damages.

I can find absolutely no merit in this lawsuit and conclude without hesitation that it was filed without good ground to support it in violation of Rule 11(a), M.R.Civ.P. The plaintiff shall pay the defendants' attorney's fees as an appropriate sanction.

The entry is:

Motion to dismiss is granted. The amended complaint is dismissed with prejudice. The defendants may submit an itemized request for attorney's fees within 10 days of the date of this order and the plaintiff shall have 10 days thereafter to respond in writing.

Dated: March 14, 2005



Paul A. Fritzsche
Justice, Superior Court

James M. Dineen - PL - Pro se
Thomas C. Newman, Esq. - DEFS