

VERMONT SUPERIOR COURT
Chittenden Unit
175 Main Street
Burlington VT 05401
802-863-3467
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 26-CV-01237

In re: Trust Estate of Nancy Stead

ENTRY REGARDING MOTIONS

Title: Motion to Dismiss (by Andrew Aiken); Motion to Dismiss (by Lindsey Harty);
(Motions: 3; 4)
Filer: Devin T. McKnight; Evan James O'Brien
Filed Date: May 27, 2026; May 27, 2026

This case concerns a challenge to an amendment to a testamentary trust that the Decedent, Nancy W. Stead, made in October 2022. She died in 2024. Her daughter, Julia Aiken, filed a petition to commence a trust proceeding in the probate division later that year. Julia asserted that her mother suffered undue influence and lacked the requisite mental capacity when she amended her trust for the third and final time in October 2022. The probate court denied Julia's requests for relief. She appeals that decision to this court.

Andrew Aiken and Lindsey Harty, two interested parties, have moved to dismiss Julia's appeal (Mots. 3, 4). Harty argues that this court lacks jurisdiction to hear the appeal. Andrew and Harty have counsel. Julia represents herself. For the reasons that follow, the court grants Mots. 3 and 4.

The probate division filed a decision on Jan. 21, 2026, granting Harty's and Andrew's motions to dismiss Julia's petitions and denying Julia the relief she requested in the following filings: Petition to Commence a Trust Proceeding, Petition to Invalidate a Trust Amendment, Amended Petition, and Amendment to Petition to Open a Trust Proceeding. The parties had previously agreed that the probate court could consider "at face value" the extrinsic materials submitted by Julia and the other parties. Decn. at 2. On Julia's claim of undue influence, the court wrote that the extrinsic materials, "taking them at face value for what they purport to be, in connection with so called undue influence activities by Andrew Aiken, do not set out any factual basis for this court to open a trust action *in re* alleged undue influence over the settlor, by Andrew Aiken." *Id.* On Julia's claim that her mother lacked the mental capacity to amend her trust, the court concluded that, considering at face value the materials Julia relied on to support her claim, the documents do not support her assertion that her mother lacked the requisite mental capacity when she amended her trust in October 2022. *Id.* at 2–3. The probate court concluded:

[I]t would not be equitable to advance this matter to the status of an open trust case, thus resulting in (much) more litigation, and (much) more depletion of the trust corpus (which would be an inevitable result of the associated fees and costs to the trust), not to mention the likely depletion of residuary share amounts to cover associated fees/costs of the parties either directly from trust funds or indirectly after the fact to make an out of pocket payor (of legal services) whole.

Id. at 3.

Julia filed a notice of appeal to this court on Feb. 16, 2026. She set forth the following statement of questions on appeal:

1. Did the Probate Court err in denying Julia Aiken’s Petition(s) seeking to invalidate the third amendment to her mother’s Trust due to either her mother’s lack of testamentary capacity, undue influence, or a combination of the two?
2. Did the Probate Court err in granting the Motions to Dismiss Julia Aiken’s Petition(s)?
3. Did the Probate Court err in denying the Motion to Conduct Discovery?
4. Did the Probate Court err in concluding that opening a trust case would be inequitable?

A party often appeals a decision by the probate division to the civil division. See 12 V.S.A. § 2553 (“The Civil Division of the Superior Court shall have appellate jurisdiction of matters originally within the jurisdiction of the Probate Division of the Superior Court, except as herein otherwise provided.”). The Vermont Supreme Court has jurisdiction over the appeal of decisions by the probate division for cases like this one. See 12 V.S.A. § 2551 (“The Supreme Court shall have jurisdiction of questions of law arising in the course of the proceedings of the Superior Courts in probate matters, as in other causes.”); *In re Peter Val Preda Trusts*, 2019 VT 61, ¶¶ 6-7, 210 Vt. 607 (affirming civil division “dismissing the appeal for lack of subject matter jurisdiction” that “essentially concerned questions of law” where “petitioner should have appealed the probate division’s order directly to this [Supreme] Court”) (citing *In re Estate of Johnson*, 158 Vt. 557, 559 (1992) (“[W]e now hold that we will review only ‘pure’ questions of law, the resolution of which do not depend upon factual distinctions and do not require review of the record” since § 2551 “preserved the right of direct appeal to this [Supreme] Court”)).

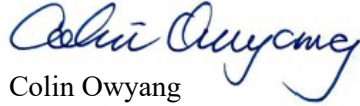
Julia’s appeal raises pure questions of law and does not depend on the probate division’s factfinding or weighing of evidence. See *In re Peter Val Preda Trusts*, 2019 VT 61, ¶ 5 (“[T]he probate division’s order was equivalent to a ruling on a motion to dismiss and did not involve any factfinding or weighing of evidence, thereby requiring an appeal to [the Supreme Court] rather than the civil division.”). She must take her appeal to the Vermont Supreme Court.

This court does not believe it has concurrent jurisdiction. *In re Estate of Johnson*, 158 Vt. at 560 (“We do not believe that the legislature intended to create a forum choice for litigants, and our interpretation of § 2551 avoids inconsistency and minimizes concurrent jurisdiction.”).

Given today’s decision, the court does not reach Andrew’s and Harty’s assertion that Julia fails to state a claim for relief.

The court will remand¹ this case to the probate division with a request that it please transmit the appeal to our Supreme Court.

Electronically signed pursuant to V.R.E.F. 9(d) on August 19, 2026.



Colin Owyang
Superior Court Judge

¹ The court remands instead of dismissing to avoid Julia having needlessly to refile her appeal. The court notes that Julia appears to have timely filed her appeal, just in the wrong court. See V.R.C.P. 72(a) (party entitled to appeal decision by probate division may file appeal with civil division within time provided in V.R.A.P. 3 and 4); V.R.A.P. 4(a) (notice of appeal must be filed within 30 days after entry of judgment appealed). Julia filed her notice of appeal with the Probate Division within the time set forth in V.R.A.P. 4(a). See *In re J.C.*, 169 Vt. 139, 145 (1999) (where notice of appeal was timely but case was appealed to wrong court, Supreme Court transferred case to appropriate court for consideration “to avoid an unduly harsh result”).