

ESTATE OF HOWARD T. DEARBORN

Submitted On Briefs May 2, 2007
Decided May 31, 2007

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER, and MEAD, JJ.

MEMORANDUM OF DECISION

Janet Dearborn-Wilkins appeals from a summary judgment in favor of the personal representative of the Estate of Howard T. Dearborn entered in the Knox County Probate Court (*Emery, J.*) on Wilkins's petition to share in Dearborn's estate as a pretermitted child pursuant to 18-A M.R.S. § 2-302 (2006). Contrary to Wilkins's contention, and viewing the summary judgment record in the light most favorable to Wilkins, the court did not err in concluding that Wilkins failed to establish a prima facie case for each element of her claim as a pretermitted child. *See* 18-A M.R.S. § 2-302; *Bonin v. Crepeau*, 2005 ME 59, ¶¶ 7-8, 873 A.2d 346, 348. Furthermore, the court did not act beyond its discretion when it denied Wilkins's request for discovery pursuant to M.R. Civ. P. 56(f). *See Bay View Bank, N.A. v. Highland Golf Mortgagees Realty Trust*, 2002 ME 178, ¶ 22,

814 A.2d 449, 454-55. Finally, although the Probate Court acted within its discretion when it imposed sanctions against Wilkins and awarded attorney fees and costs to the personal representative, *see* M.R. Prob. P. 54(d)(1); *Advanced Constr. Corp. v. Pilecki*, 2006 ME 84, ¶ 29, 901 A.2d 189, 198-99, we decline to sanction Wilkins for filing the instant appeal, *see* M.R. App. P. 13(f).

The entry is:

Judgment affirmed.

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