



PETRUCCELLI, MARTIN
& HADDOW LLP
Attorneys at Law

Two Monument Square
Suite 900
P.O. Box 17555
Portland, ME 04112-8555
Tel: 207.775.0200
Fax: 207.775.2360
www.pmhlegal.com

GERALD F. PETRUCCELLI
gpetrucelli@pmhlegal.com

October 31, 2023

VIA HAND DELIVERY

Matthew Pollack, Esq.
Clerk of the Law Court
Maine Supreme Judicial Court
205 Newbury Street, Rm. 139
Portland, ME 04101

Re: **BCD-23-122**

Dupuis, et al. v. Roman Catholic Bishop of Portland

Dear Mr. Pollack:

In accordance with M.R. App. P. 7A(j), I am writing to advise the Court and counsel that an important relevant legal authority came to our attention after the briefing was completed. The case is *In re: Guardianship of Jeremiah T.*, 2009 ME 74, 976 A.2d 955.

The mother of Jeremiah T. appealed from a judgment in the Probate Court denying her petition to terminate the guardianship of her son. The guardianship had been previously obtained by the child's maternal great-grandparents. The Law Court vacated and remanded, agreeing with the petitioning mother that the amendment to the statute governing termination of guardianships, enacted after the mother had consented to the guardianship, could not be retroactively applied. The effect of that statute, if applied retroactively, would have been to shift the burden of proof to the mother.

The reason for adding this authority is to support, as a matter of Maine law, a point made at pages 16 and 17 of the Blue Brief, citing the Supreme Court decision in *Guaranty Trust v. York*. The point is that calling a legal proposition

RECD ME SUPREME JUD CT
OCT 31 '23 PM2:14

October 31, 2023

Page 2

“procedural” does not determine its applicability when it does or may have “substantive,” i.e., outcome-affective, consequences. The statute in this case, retroactively eliminating the dispositive affirmative defense of the expired statute of limitations, is at least as “substantive” in its effect as the impermissible shift of the burden of proof in *Jeremiah T.*

Sincerely,



Gerald F. Petrucci

GFP/kc

CC: Michael T. Bigos, Esq.

mbigos@bermansimmons.com;

bigosservice@bermansimmons.com

Timothy M. Kenlan, Esq.

tkenlan@bermansimmons.com

Joseph G.E. Gousse, Esq.

jgousse@bermansimmons.com

Jessica Arbour, Esq.

jessica@horowitzlaw.com

Jason Anton, Esq., AAG

jason.anton@maine.gov

Jesse E. Weisshaar, Esq.

jweisshaar@shb.com

Cary Silverman, Esq.

csilverman@shb.com

Lucia Chomeau Hunt, Esq.

lucia@ptla.org

Melissa L. Martin, Esq.

martin@mecasa.org

Thomas L. Douglas, Esq.

tdouglas@douglasmcdaniel

Shelby Leighton, Esq.

sleighton@publicjustice.net

Marci L. Hamilton, Esq.

marcih@sas.upenn.edu