

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: March 12, 2026

CV-24-1374

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In the Matter of the Estate of MAURA  
DELANEY, Deceased.

BURTON GULNICK JR., as  
Administrator of the Estate of  
MAURA DELANEY,  
Deceased,  
Petitioner;

MEMORANDUM AND ORDER

ANDREW DELANEY, Individually  
and as Administrator of the  
Estate of GEORGE  
DELANEY JR., Deceased,  
Appellant,  
and

JOHN DELANEY,  
Respondent.

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Calendar Date: January 7, 2026

Before: Clark, J.P., Aarons, Pritzker, Reynolds Fitzgerald and Fisher, JJ.

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*Andrew Delaney*, Menlo Park, California, appellant pro se.

*John Delaney*, Bearsville, respondent pro se.

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Pritzker, J.

Appeal from an order of the Surrogate's Court of Ulster County (Sara McGinty, S.), entered July 11, 2024, which, in a proceeding pursuant to SCPA article 22, dismissed respondent Andrew Delaney's objections to an accounting of decedent's estate.

In 2013, Maura Delaney (hereinafter decedent) executed a will devising her home to two of her sons, respondent John Delaney (hereinafter the proponent brother) and George Delaney Jr., as joint tenants with rights of survivorship, and making certain other specific bequests.<sup>1</sup> Decedent died in 2016, and the proponent brother and George Delaney Jr. petitioned for probate of decedent's will and letters testamentary. While the matter was pending, George Delaney Jr. (hereinafter the deceased brother) died and respondent Andrew Delaney (hereinafter the objectant brother), another of decedent's sons, was appointed as voluntary administrator of the deceased brother's estate.<sup>2</sup>

Following several years of acrimonious discovery and motion practice, Surrogate's Court granted the proponent brother's motion for summary judgment, accepted decedent's will to probate and appointed petitioner – the then Ulster County Commissioner of Finance – as administrator of the estate.<sup>3</sup> When petitioner filed a petition for judicial settlement of the estate, the objectant brother objected, both in his individual capacity and as voluntary administrator of the deceased brother's estate. In October 2022, the court dismissed the objections for lack of standing, specifying that the objections asserted by the objectant brother in his capacity as voluntary administrator of the decedent brother's estate were dismissed "without prejudice, subject to the timing requirements for re-filing under CPLR 205 (a)." In January 2023, with no further objections received, the court issued a final decree for the judicial settlement of decedent's estate. More than a year

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<sup>1</sup> Although the record purports to include decedent's 2013 will as well as two prior wills, the poor quality of the reproductions makes it difficult to discern whether that is the case. Nevertheless, it is undisputed that the 2013 will added a right of survivorship provision to the joint tenancy.

<sup>2</sup> A voluntary administrator may settle a small estate – defined as having a gross value of \$50,000 or less, exclusive of certain statutory setoffs – without the formality of court administration (*see* SCPA 1301).

<sup>3</sup> The objectant brother notes that petitioner has since been convicted of financial crimes.

later, in May and June 2024, the objectant brother, having since been appointed administrator of the deceased brother's estate, again objected to petitioner's accounting. The court dismissed the objections as untimely. The objectant brother appeals.

Surrogate's Court properly dismissed the objectant brother's 2024 objections as untimely. "As a general rule, an accounting decree is conclusive and binding with respect to all issues raised and as against all persons over whom Surrogate's Court obtained jurisdiction" (*Matter of Hunter*, 4 NY3d 260, 270 [2005] [citations omitted]). Although the objectant brother was apparently advised as early as August 2022 to seek full letters of administration for the deceased brother's estate, he waited many months after the court's October 2022 order – until "mid-2023" – to do so, offering no explanation for his delay.<sup>4</sup> Notably, although both parties construe the order on appeal as referencing a 90-day deadline, the court merely noted that "[n]early 90 days" passed between the October 2022 order and the January 2023 final decree – a period in which the objectant brother seemingly took no steps to seek full letters of administration for the deceased brother's estate.

As to the October 2022 order's reference to CPLR 205 (a), this provision was inapplicable insofar as it permits, under certain circumstances, a six-month extension of the statute of limitations for the commencement of a new action – a procedural posture not relevant to the filing of objections within an accounting proceeding. However, even construing the reference to permit the objectant brother an additional six months to file objections, his delay of nearly 1½ years far exceeded that period. Thus, under these circumstances, Surrogate's Court properly dismissed the objections as untimely (*see Matter of Hunter*, 4 NY3d at 270; *cf. Matter of Perrenod*, 243 AD3d 794, 796 [2d Dept 2025]; *Matter of Urbach*, 252 AD2d 318, 320 [3d Dept 1999]).<sup>5</sup> Because Surrogate's

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<sup>4</sup> The objectant brother's challenge to Surrogate Court's dismissal of his 2022 objections for lack of standing is not properly before this Court because he did not appeal from either the October 2022 order or the final decree of judicial settlement (*see Matter of Spence v New York State Off. of Mental Health*, 211 AD3d 1425, 1426 n [3d Dept 2022]; *Matter of Smith*, 160 AD3d 1256, 1257 [3d Dept 2018]).

<sup>5</sup> Insofar as the objectant brother contends that Surrogate's Court violated his due process rights by dismissing his objections as untimely, this argument lacks merit, as he was properly served with notice of petitioner's petition and permitted an opportunity to object (*see SCPA 2210* [10]). Contrary to his suggestion, even persons required to be served with process in an accounting proceeding may be barred from filing objections

Court properly dismissed the objectant brother's 2024 objections as untimely, this Court need not reach the merits of his objections.

Finally, we decline the proponent brother's requests for sanctions. Although it appears that the objectant brother's actions in refiling objections and pursuing the instant appeal have delayed the sale of decedent's home, neither these actions nor that this appeal has been unsuccessful rise to the level of frivolous conduct (*see Matter of Doe v Rensselaer Polytechnic Inst.*, 172 AD3d 1691, 1693 [3d Dept 2019]; *Matter of Garrett YY.*, 258 AD2d 702, 704 [3d Dept 1999]).<sup>6</sup> We have reviewed the objectant brother's remaining contentions and find them without merit.

Clark, J.P., Aarons, Reynolds Fitzgerald and Fisher, JJ., concur.

ORDERED that the order is affirmed, with costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court

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(*see Matter of Schultz*, 104 AD3d 1146, 1147 [4th Dept 2013]; *Matter of Woods*, 36 AD2d 880, 880 [3d Dept 1971]).

<sup>6</sup> We also note several erroneous citations in the objectant brother's reply brief.