

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
February 5, 2026 Session

FILED

08/26/2026

Clerk of the
Appellate Courts

IN RE ESTATE OF LEO GEORGE MASULLA

Appeal from the Probate Court for Wilson County
No. 2022-PR-90 A. Ensley Hagan, Jr., Judge

No. M2025-00224-COA-R3-CV

This appeal arises from the dismissal of a verified creditor claim filed by Ned Hanson (“Mr. Hanson”) against the Estate of Leo George Masulla (“the Estate” or “Mr. Masulla”) pursuant to Tennessee Code Annotated § 30-2-307. The claim, in the total amount of \$2,185,431, is for expenditures by Mr. Hanson for the “personal care” of Mr. Masulla and “farm management and improvement services” for the period from 2009 to 2022, when Mr. Masulla died. The personal representative of the estate of Mr. Masulla as well as his heirs at law timely filed exceptions to the claim denying any liability. Thereafter, the estate and heirs each filed a Tennessee Rule of Civil Procedure 12.02(6) motion to dismiss for failure to state a claim. Mr. Hanson filed a response in opposition to the motions to dismiss as well as a motion to amend the claim. The probate court denied the motion to amend as untimely. The court also dismissed the claim on multiple grounds finding “it is in violation of the statute of frauds, statute of limitations and the claim is unsubstantiated as the credit card statements are not sufficient to support the claim,” and that the claim was a collateral attack on a final judgment in a chancery court action to quiet title to Mr. Masulla’s real property in his heirs. For the reasons set forth below, we affirm the judgment of the probate court in part, reverse in part and remand for further proceedings.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Probate Court
Affirmed in part; Reversed in part; and Remanded**

FRANK G. CLEMENT, JR., C.J., delivered the opinion of the court in which THOMAS R. FRIERSON II, and JEFFREY USMAN, JJ. joined.

Sean C. Wlodarczyk, Nashville, Tennessee, for the appellant, Ned Hanson.

Donnavon Vasek and Brandon P. Dragan, Lebanon, Tennessee, for the appellees, Dennis J. Masulla, Mary M. Friedburg, Susan M. Saffer, and the Estate of Leo Masulla.

OPINION

FACTS AND PROCEDURAL HISTORY

Leo George Masulla, a resident of Wilson County, Tennessee, died intestate on February 12, 2022. He is survived by three siblings, Susan Saffer, Mary Friedburg,¹ and Dennis Masulla, as his heirs at law (“the Heirs”).

An order issuing letters of administration for the estate of Mr. Masulla was entered on February 23, 2022, with attorney Taylor Durette being appointed to serve as the Administrator of the Estate.² Shortly thereafter an inventory of the assets of the estate was filed with the court. Mr. Masulla’s principal asset at the time of his death was a 30-acre tract of land located at 576 Nokes Road in Lebanon, Wilson County, Tennessee (“the Property”).³

On June 30, 2022, Mr. Hanson, a neighbor of Mr. Masulla, filed a claim against the Estate that listed two “Items” with the “Nature of Claims” and amount of each claim stated as follows:

“Personal care of [Mr. Masulla], 2009 to 2022” in the amount of \$216,073.

“Farm management and improvement services, 2009 to 2022” in the amount of \$1,969,358.00.

Mr. Hanson also submitted credit card statements, bank statements and other papers as “supporting documentation of above-listed claims.”⁴

The Estate filed an Exception to Claim on July 28, 2022⁵, asserting that Mr. Hanson’s claim was not enforceable because, inter alia, there was no proof submitted by

¹ Slight variations in the spelling of Ms. Friedburg’s name exist throughout the record.

² Letters of Administration ad litem were issued to Taylor Durette by the Wilson County Probate Court March 29, 2022.

³ In a subsequent Notice of Insolvency proposing to sell the Property, the administrator represented to the court that “The Decedent has no additional personal property . . . other than his clothing and personal effects which are estimated as approximately \$100.”

⁴ More than one thousand pages of such documents were filed in support of the claims.

⁵ The Exception was amended on September 6, 2022, without any substantive changes to the defenses.

Mr. Hanson that proved the existence of any agreement with Mr. Masulla regarding land or personal services. The Estate also contended there was no writing to show an agreement between Mr. Masulla and Mr. Hanson for which Mr. Hanson could reasonably expect payment for his services. The Heirs also filed an Exception to Claim asserting similar defenses.

Pursuant to Notice from the Clerk of the Probate Court entered on July 28, 2022, the exceptions to Mr. Hanson's claim against the Estate were set to be heard on September 14, 2022.

On September 6, 2022, Mr. Hanson filed a Petition for an Implied Partnership and Constructive Trust against the Estate of Mr. Masulla in Chancery Court for Wilson County.⁶ Mr. Hanson asked the chancery court to establish an implied partnership between himself and Mr. Masulla related to the farming operations on the Property and that a constructive trust be imposed upon the Property until the Estate could be fully administered. He also alleged that he had spent over \$1.97 million "in improvements and updates" to the Property and sought a judgment in that amount under the theory of unjust enrichment. The Petition also stated that Mr. Hanson "files the Instant Petition in support of his claims against the Estate of Leo Masulla [in the probate court] and seeks recovery for the substantial monetary debt he has incurred in caring for and partnering with the Decedent." The Estate filed an answer denying any liability.

Then, six days before the Estate's exception to the claim was to be tried, Mr. Hanson filed an Expedited Motion to Stay Proceedings in Probate Court while he pursued his claims in chancery court. As grounds for the stay Mr. Hanson represented to the probate court that

A substantial portion of the claim filed by [Mr. Hanson] stems directly from the "Petition for Implied Partnership and Constructive Trust." Many of the issues as presented in [his] claim are closely tied to the causes of action asserted in the "Petition for Implied Partnership and Constructive Trust."

Therefore, in the interest of conserving judicial and party resources, Petitioner requests that [the probate court] stay the proceedings on Petitioner's claim and the subsequently filed exceptions pending the outcome of the Chancery Court proceeding on Petitioner's "Petition for Partnership and Constructive Trust."

⁶ Mr. Hanson alleged, inter alia, that he and Mr. Masulla were not only neighbors and friends, but also business partners with an informal arrangement to run a joint farming operation. *See Ned Hanson v. The Estate of Leo Masulla, Respondent, and Mary Friedberg, Susan Saffer, and Dennis Masulla, Intervening Petitioners*, No. 2022-CV-193 (Ch. Ct., Wilson Cnty, Sep. 13, 2024).

The motion for a stay was heard on September 12, 2022, and pursuant to an order entered on September 28, 2022, the probate court stayed all proceedings related to Mr. Hanson's claim pending the resolution of the chancery court proceeding. The relevant part of the order reads:

1. The proceedings on Petitioner's claim against the Estate of Leo Masulla are hereby stayed indefinitely pending the resolution of the Petition for Implied Partnership and Constructive Trust filed in the Chancery Court for Wilson County, Tennessee, Docket No. 2022CV193.
2. This stay of proceedings shall only apply to Petitioner's claim against the Estate of Leo Masulla and shall not stay any other claim proceedings or the administration of the Estate of Leo Masulla.

Shortly thereafter, the Heirs intervened in the chancery court action and filed an Answer to the Amended Petition and Counterclaim. They denied that Mr. Hanson was entitled to any of the relief sought in this petition, and asserted a counterclaim against Mr. Hanson to, inter alia, quiet title to the Property.

After two years of pretrial preparation and discovery, the chancery action came for trial on September 9, 2024. On the morning of trial, Mr. Hanson voluntarily dismissed his chancery claims; nevertheless, the Heirs' counterclaim to quiet title proceeded to judgment. In a judgment entered September 13, 2024, the chancery court ruled that the Heirs owned the land in fee simple and ordered Mr. Hanson "to vacate the property in accordance with this Judgment." *See Hanson v. The Estate of Leo Masulla*, No. 2022-CV-193.

No appeal was taken from the chancery court judgment.

Three months later, on December 11, 2024, the Estate filed a Rule 12.02(6) motion to dismiss Mr. Hanson's probate court claim contending he failed to state a claim upon which relief could be granted.⁷ The motion incorporated the Estate's previously filed exceptions to Mr. Hanson's claim. Additionally, the Estate contended the claim should be dismissed because Mr. Hanson offered no proof that Mr. Masulla requested any of Mr. Hanson's services or that Mr. Hanson had a reasonable expectation of being paid for his services and he failed to show proof of a contract while seeking contractual damages. The Estate also contended that the claim should be dismissed based on the Statute of Frauds, Tenn. Code Ann. § 29-2-101, and due to Mr. Hanson's failure to file an itemized statement

⁷ The Heirs also filed a Rule 12.02(6) motion to dismiss for failing to state a claim upon which relief could be granted, but their motion, filed on September 9, 2022, was stayed pursuant to the September 28, 2022 order.

of an open account as required by Tenn. Code Ann. § 30-2-307(b).⁸ The motions to dismiss were set to be heard on December 18, 2024.

On December 17, 2024, Mr. Hanson filed a motion to amend his claim against the Estate and his response in opposition to the Estate's motion to dismiss. He contended that the amended claim against the estate "would be sufficient on its face to establish Petitioner's creditor claim and the existence [of] genuine issues of material facts to be resolved by this Court." Mr. Hanson did not proffer an amended claim, however. Using similar arguments as stated in the motion to amend, Mr. Hanson's response to the Estate's motion to dismiss stated, in pertinent part:

10. Should this Court grant Petitioner's contemporaneously filed Motion to Amend Creditor Claim, Petitioner is prepared to amend his creditor claim with the presentation of:
 - a. oral and deposition testimony and the affidavit of Petitioner, with whom Decedent contracted for personal care, farm management, and farm improvement services;
 - b. oral testimony and the affidavit of Stephen Towne, who worked full-time on the Property as jointly directed by Petitioner and Decedent from 2007 until Decedent's death;
 - c. oral testimony and the affidavit of William Jenkins, an attorney whom Decedent hired months before his death to prepare trust documents naming Petitioner and his heirs as the trustee and beneficiaries of the Property;
 - d. oral testimony and the affidavits of Waine Hicks, a licensed general contractor, and Shannon Maxwell, a licensed realtor, whom Petitioner retained to appraise the farm improvement services Petitioner rendered; and
 - e. oral testimony of the Heirs.
11. Petitioner would amend his creditor claim to aver that the above witnesses intend to offer proof that:

⁸ The motion to dismiss filed by the Estate included a Notice that the "the hearing on the motion is scheduled for December 18, 2024, by Zoom platform at 9:00 a.m.

- a. Decedent explicitly and implicitly requested each of said projects and services on a rolling basis in oral and written communications with both Petitioner and Mr. Towne;
- b. Petitioner completed each of said projects and services in less than one (1) year as reflected in extensive financial records and corroborated by the testimony of Petitioner and Mr. Towne;
- c. Neither Decedent nor the Heirs are responsible for completion of these projects and services underlying Petitioner's creditor claim;
- d. Petitioner naturally expected to receive just compensation from Decedent for the substantially valuable projects and services he completed; and
- e. Decedent should have reasonably understood that Petitioner expected compensation, and in fact, offered to compensate Petitioner, ultimately by seeking to place the Property in a trust for the benefit of Petitioner and his heirs, which fact Mr. Jenkins can corroborate in part.

The Estate's motion to dismiss and Mr. Hanson's motion to amend his claim were heard on December 18, 2024. The court's rulings on the motions were set forth in two separate orders.

The Probate Court denied Mr. Hanson's motion to amend stating:

The Court finds that this Motion to Amend is time-barred pursuant to Tenn. Code Ann. § 30-2-307. The Chancery Court proceedings were resolved more than 90 days ago. This Court finds that only in extraordinary circumstances are amendments allowed and there has been no such showing. Petitioner has provided no sufficient reason why he did not file the Motion to Amend within 30 days of the Chancery Court ruling. Petitioner failed to do that, and his Motion to Amend is time-barred and there is insufficient evidence for relief under extraordinary circumstances.

During the same hearing on December 18, 2024, the Probate Court also heard arguments on the Estate's motion to dismiss.⁹ In its ruling on the motion to dismiss, the Probate Court stated:

⁹ The order granting the motions to dismiss reads: "This matter came to be heard on the 18th day of December 2024, upon the Motion to Dismiss filed by the Administrator of the Estate of Leo George

[T]his claim is a collateral attack on the final judgment from Chancery Court, that was signed on September 13, 2024. Mr. Hanson voluntarily nonsuited the case and allowed time to expire for an appeal. The Court further finds that this claim fails because it is in violation of the statute of frauds, statute of limitations and the claim is unsubstantiated as the credit card statements are not sufficient to support the claim.

Thus, the Probate Court denied Mr. Hanson's motion to amend his claim and granted the Estate's motion to dismiss Mr. Hanson's claim.

This appeal followed.

ISSUES

The parties present the following issues for our review, which we have restated for clarity.

The issues presented by Mr. Hanson are as follows:

1. Whether the Probate Court erred when it dismissed Mr. Hanson's creditor claim against the Estate without holding a trial or evidentiary hearing.
2. Whether the Probate Court erred when it denied Mr. Hanson's request to amend his claim against the Estate.

The issues presented jointly by the Estate and the Heirs are as follows:¹⁰

1. Whether the Probate Court properly dismissed Mr. Hanson's claim against the Estate, after giving an opportunity for a hearing and the presentation of witnesses and evidence.
2. Whether the Probate Court abused its discretion when it denied Mr. Hanson's motion to amend his claim, which was filed more than ninety days after the expiration of the claim period, and whether there were extraordinary circumstances that would justify a further extension.

Masulla ('Administrator'), Sonya S. Wright and the Response in Opposition to Motion to Dismiss filed by Petitioner."

¹⁰ The Estate and the Heirs joined in filing one appellees' brief.

3. Whether this Court can review the arguments raised by Mr. Hanson's for the first time on appeal.
4. Whether Mr. Hanson's appeal is frivolous.

STANDARD OF REVIEW

We review a trial court's grant of a motion to dismiss de novo, with no presumption of correctness. *Broadway v. Tennessee Dep't of Correction*, No. M2025-00766-COA-R3-CV, 2026 WL 84197, at *3 (Tenn. Ct. App. Jan. 12, 2026) (citing *Brown v. Ogle*, 46 S.W.3d 721, 726 (Tenn. Ct. App. 2000)).

Our review of a denial of a request to amend pleadings is reviewed subject to the abuse of discretion standard. "Generally, a review of a denial to amend pleadings is governed by the abuse of discretion standard of review." *Vincent v. CNA Ins. Co.*, No. M2001-02213-COA-R9-CV, 2002 WL 31863290, at *2 (Tenn. Ct. App. Dec. 23, 2002) (citing *Henderson v. Bush Bros. & Co.*, 868 S.W.2d 236, 237–38 (Tenn. 1993)). In evaluating a judgment for abuse of discretion, a trial court's holding will not be overturned "so long as reasonable minds can disagree as to the propriety of the decision made." *State v. Scott*, 33 S.W.3d 746,752 (Tenn. 2000). Under this standard, we may not substitute our judgment for that of the trial court. *Myint v. Allstate Ins. Co.*, 970 S.W.2d 920, 927 (Tenn. 1998).

Regarding frivolous appeals, an appellate court has discretion to determine whether an appeal is frivolous. "The decision to award damages for the filing of a frivolous appeal rests solely in the discretion of this Court." *Chiozza v. Chiozza*, 315 S.W.3d 482, 493 (Tenn. Ct. App. 2009). However, that "discretion is exercised 'sparingly so as not to discourage legitimate appeals.'" *Eberbach v. Eberbach*, 535 S.W.3d 467, 475 (Tenn. 2017) (quoting *Whalum v. Marshall*, 224 S.W.3d 169, 181 (Tenn. Ct. App. 2006)).

ANALYSIS

I. MOTION TO AMEND CLAIM

Mr. Hanson argues that the trial court erred when it barred him from amending his claim as untimely.

Mr. Hanson filed a timely claim with the probate court against the Estate. The Estate and the Heirs each filed timely exceptions and amended exceptions to the claim, the last of which was filed on September 6, 2022. Under Tennessee Code Annotated § 30-2-307(e), creditors who have submitted timely claims have 30 days after an exception is filed to file an amendment to their claims. Thus, Mr. Hanson had until October 7, 2022, to file a motion

to amend his claim unless an exception applied, or the running of the thirty-day limitation was stayed.

Here, no exception applied, but the thirty-day limitation was stayed by court order entered on September 28, 2022, twenty-two days after the last amended exception was filed. As the order reads, the probate court stayed proceedings on Mr. Hanson's claim against the Estate "indefinitely pending the resolution of the *Petition for Implied Partnership and Constructive Trust* filed in the Chancery Court for Wilson County[.]" Thus, the order stopped the clock on the thirty-day limitation to amend the probate claim "pending the resolution" of Mr. Hanson's chancery court claim.

An Order of Voluntary Dismissal of Mr. Hanson's chancery court petition was entered on September 13, 2024. That same day, a judgment quieting title in favor of the Estate was entered by the chancery court. The second order resolved all claims in the chancery court action, which constituted a final judgment in the chancery court dispute. Because no one appealed that judgment, the September 13, 2024 order became a final, non-appealable judgment thirty days later. Therefore, at the latest, Mr. Hanson's petition was no longer "pending resolution" after October 13, 2024.

Based on these facts, the Estate contended that the stay was automatically lifted on October 13 and that Mr. Hanson had only eight days thereafter to file his motion to amend, which he failed to do. As a result, the Estate argues, his motion was time-barred under Tennessee Code Annotated § 30-2-307(e). Mr. Hanson disagrees, noting that no order was entered in the probate court lifting the stay, so the stay remained in effect when he filed his motion to amend.

We find the Estate has the better argument on this issue. Significantly, the order staying proceedings on Mr. Hanson's claim includes no language stating that it is "pending further orders of the court," or other words to that affect. Instead, as the order reads, the probate court stayed proceedings on Mr. Hanson's claim against the Estate "indefinitely pending the resolution of the *Petition for Implied Partnership and Constructive Trust* filed in the Chancery Court for Wilson County[.]" Consequently, the stay was automatically lifted once Mr. Hanson's chancery court claim was no longer pending, which occurred at the latest on October 13, 2024.

Under Tennessee Code Annotated § 30-2-307(e), creditors who have submitted timely claims have 30 days after an exception is filed to file an amendment to their claims. Unless the probate court "grants an extension of time for amendment on the creditor's showing of extraordinary circumstances, any amendment filed after the time prescribed shall be void." *Id.* Here, Mr. Hanson had thirty days from September 6, 2022, to file an amendment to his probate claim. The stay entered by the Probate Court was limited to the period Mr. Hanson's claim was "pending resolution" in the chancery court. Once Mr.

Hanson's chancery court claim was dismissed, the stay on probate proceedings was automatically lifted. Thus, Mr. Hanson waited too late to file his motion to amend his claim.

Accordingly, we affirm the probate court's finding that Mr. Hanson's motion to amend his claim was untimely.¹¹

II. DISMISSAL OF MR. HANSON'S CLAIM

Mr. Hanson contends the Probate Court erred when it dismissed his claim against the Estate without holding a trial or evidentiary hearing.

Relying on Tennessee Code Annotated § 30-2-315(a)(2), Mr. Hanson argues that once an exception to his claim was filed, the Probate Court was "statutorily obligated" to conduct a trial or evidentiary hearing to try his claim and that the court committed reversible error by dismissing the claim without affording him a full hearing. He also contends that the Tennessee Rules of Civil Procedure do not apply to probate proceedings, meaning the court erred in conducting a hearing based on the Estate's Rule 12.02(6) motion to dismiss. For its part, the Estate contends the authority Mr. Hanson relies upon, *Estate of Green v. Carthage Gen. Hosp., Inc.*, 246 S.W.3d 582, 584 (Tenn. Ct. App. 2007), does not trump its right to file a motion to dismiss pursuant to Tennessee Rule of Civil Procedure 12.02(6) after filing its exception to the claim. We will discuss each issue in turn.

A. Tennessee Code Annotated § 30-2-315(a)(2)

When an estate files an exception to a creditor's claim, the general practice is for the probate court to "hear and determine all issues arising upon all the exceptions." Tenn. Code Ann. § 30-2-315(a)(2); *see Estate of Green*, 246 S.W.3d at 583 (stating "The procedure to be followed after an exception is filed is set out in Tennessee Code Annotated §§ 30-2-314 and 30-2-315.").¹² Thus, an exception to a claim is generally to be tried by the probate judge "upon oral evidence without formal proceedings." *Needham v. Moore*, 292

¹¹ Mr. Hanson is time-barred from amending his claim to increase the amount of his claim or to state additional or different claims. However, on remand the parties and/or the court may find it beneficial to allow or require Mr. Hanson to file a more definite statement as contemplated under Tennessee Rule of Civil Procedure 12.05 because the claim as stated is vague. As we discuss later, a creditor's claims may be an "informal statement of the cause of action," *see Wilson v. Hafley*, 226 S.W.2d 308, 311 (Tenn. 1949), as the statute does not require a particular form by which a claim may be stated. *See* 2 PRITCHARD ON WILLS 19 § 792. This, however, does not preclude requiring a more definite statement of the claim if the claim, as here, is complex.

¹² When no jury demand is made, the clerk shall fix a date for the hearing by the probate court which shall "hear and determine all issues arising upon all the exceptions." Tenn. Code Ann. §§ 30-2-315(a)(1) & (2). "No other pleadings shall be required, and the testimony may be taken orally or by deposition." Tenn. Code Ann. § 30-2-315(a)(3).

S.W.2d 720, 722 (Tenn. 1956) (quoting *Cooper's Estate v. Keathley*, 177 S.W.2d 356, 358 (Tenn. Ct. App. 1943)).

As Mr. Hanson notes, an estate is required to file a timely exception to contest a creditor's claim, and the filing of the exception sets the stage for the claim to be tried upon oral evidence by the probate judge. *See id.* But contrary to Mr. Hanson's contentions, the claims statute does not prohibit an estate from also filing a motion to dismiss for failure to state a claim for which relief may be granted pursuant to Rule 12.02(6) of the Tennessee Rules of Civil Procedure. *See In re Estate of Tanner*, 295 S.W.3d 610, 613 (Tenn. 2009).

"[C]ourts exercising probate jurisdiction are courts of record," *In re Estate of White*, 77 S.W.3d 765, 769 (Tenn. Ct. App. 2001), and the Tennessee Rules of Civil Procedure establish procedures for circuit and chancery courts and for "other courts of record." *See* Tenn. R. Civ. P. 1, Advisory Commission Comment. Contrary to Mr. Hanson's contention, procedures set out in the Tennessee Rules of Civil Procedure may be employed by courts exercising probate jurisdiction.¹³

Moreover, it has been recognized that the filing of a claim against an estate is equivalent to the commencement of a civil action. *See Wilson v. Hafley*, 226 S.W.2d at 312; *see also* 2 Jack W. Robinson, Sr. et al., PRITCHARD ON WILLS AND ADMINISTRATION OF ESTATES Chapter 19 § 791 (7th ed. 2009). Consequently, provided a timely exception to a claim is filed, an estate may additionally challenge a creditor's claim by filing a Rule 12.02(6) motion to dismiss for failure to state a claim for which relief may be granted. *See In re Estate of Tanner*, 295 S.W.3d at 613.

Indeed, the propriety of an estate filing a motion to dismiss a creditor's claim was acknowledged by our Supreme Court in *In re Estate of Tanner*, wherein the administrator of the Tanner estate filed an exception to the claim as well as a Rule 12.02(6) motion to dismiss the creditor's claim as time-barred. *See id.* In discussing the merits of the motion to dismiss, the Supreme Court explained that the dispositive issue was whether the claim by the Bureau of TennCare against the Tanner estate was timely filed. *Id.* at 616. The trial court granted the estate's motion to dismiss the creditor's claim, which decision was affirmed by the Court of Appeals. Although the Supreme Court reversed, finding the claim

¹³ We recognize that the statutory procedures for claims against an estate are to be liberally construed so as to provide a simple, inexpensive, and expeditious method for the administration of estates and, specifically, to "dispense with formal pleadings." *Bowden v. Ward*, 27 S.W.3d 913, 918 (Tenn. 2000) (quoting *Wilson v. Hafley*, 226 S.W.2d at 311). Nevertheless, this practice becomes impractical for complex claims like the instant case.

was timely filed, *id.*, its analysis acknowledged the estate’s right to file a Rule 12.02 motion in conjunction with a timely filed exception to the creditor’s claim.¹⁴

Therefore, we find and hold that estates may file a Rule 12.02 motion to dismiss in addition to filing an exception to the claim, and that the probate court may dismiss a claim without conducting a trial upon oral evidence. *See Needham v. Moore*, 292 S.W.2d at 722. Accordingly, the probate court did not err in conducting a hearing on the Estate’s Rule 12.02(6) motion to dismiss.

B. The Hearing on December 18, 2024

The parties also dispute the purpose and scope of the December 18, 2024, hearing following which the probate court dismissed Mr. Hanson’s claim in all respects on several grounds.

The Estate insists it was an evidentiary hearing on its exception to the claim, meaning Mr. Hanson was compelled to present evidence to support his claim. Because he failed to do so, the court properly dismissed his claim. For his part, Mr. Hanson insists the hearing was limited to the Estate’s Rule 12.02(6) motion to dismiss for failure to state a claim for which relief may be granted. Because Rule 12.02(6) motions only challenge the legal sufficiency of the complaint, in this case his claim, Mr. Hanson contends no evidence was to be presented or considered. *See Deja Vu of Nashville, Inc. v. Metro. Gov’t of Nashville & Davidson Cnty.*, 311 S.W.3d 913, 917 (Tenn. Ct. App. 2009) (the purpose of a Rule 12.02(6) motion to dismiss is to determine whether the pleading states a claim upon which relief can be granted). Accordingly, Mr. Hanson asserts that the court’s ruling, which was based in part on a finding that the evidence was insufficient to support his claim, was reversible error.

The order dismissing Mr. Hanson’s claim supports Mr. Hanson’s position. The introductory paragraph of the order reads in pertinent part: “This matter came to be heard on the 18th day of December 2024, upon the Motion to Dismiss filed by the Administrator of the Estate of Leo George Masulla . . . and the Response in Opposition to Motion to Dismiss filed by [Mr. Hanson].” Further, the order closes with the statement “pursuant to Rule 12.02(6) and the state law regarding claims, this Court GRANTS the Motion to Dismiss and dismisses the creditor claim of Ned Stephen Hanson against the Estate of Leo George Masulla.”

¹⁴ The claims statute does not require formal pleadings and does not prescribe any particular form in which a claim must be stated. *See* 2 PRITCHARD ON WILLS 19 § 792. Thus, unless the claimant is compelled to make a more definite statement of the cause(s) of action at issue, as contemplated by Tennessee Rule of Civil Procedure 12.05, there may be some practical limitations to the use of a Rule 12.02(6) motion to dismiss a creditor’s claim. A comprehensive discussion of probate claims may be found in 2 PRITCHARD ON WILLS 19 § 788, et seq.

Although the order expressly states that the hearing came to be heard on the Estate's Rule 12.02(6) motion to dismiss and the response to the motion, we acknowledge that the title of the order is broader. It reads: "Order Granting Motion to Dismiss and Granting Exception to Claim of Ned Stephen Hanson." We, however, find the title inconsequential because the record does not include a notice that the estate's exception to the claim was to be tried on oral evidence on December 18, 2024. To the contrary, the only relevant notice in the record states the Rule 12.02(6) was to be heard on that date. While the record does contain notices issued in 2022 by the Clerk of the Probate Court setting evidentiary hearings on the exceptions, those hearings were stayed by court order pending the resolution of the chancery court proceedings and no subsequent notices related to the exception appear in the record. Thus, Mr. Hanson was not on notice that the exceptions to his claim would be tried "upon oral evidence" on December 18, 2024, as is contemplated by the ruling in *Needham v. Moore*, 292 S.W.2d at 722 and Tennessee Code Annotated § 30-2-315(a).

For these reasons, we find and hold that the sole purpose of the hearing on December 18, 2024, was to consider the Estate's Rule 12.02(6) motion to dismiss the claim, a motion that limits the Estate's challenges to "the legal sufficiency of the complaint, not the strength of the plaintiff's proof or evidence." *Elvis Presley Enters., Inc. v. City of Memphis*, 620 S.W.3d 318, 323 (Tenn. 2021) (quoting *Webb v. Nashville Area Habitat for Human., Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011)).

C. Dismissal of Claims Pursuant to Rule 12.02(6)

A Rule 12 motion does not challenge the strength of the plaintiff's proof. *Deja Vu*, 311 S.W.3d at 917 (citing *Bell ex rel. Snyder v. Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.*, 986 S.W.2d 550, 554 (Tenn. 1999)). And in reviewing a motion to dismiss, the court must liberally construe the complaint, presuming all factual allegations to be true and giving the plaintiff the benefit of all reasonable inferences. *Id.* Citing *Pursell v. First American National Bank*, 937 S.W.2d 838, 840 (Tenn. 1996). This presumption is particularly relevant here because the legal sufficiency of the pleading to be considered is a creditor's claim in a probate proceeding. And we have held that such a pleading may be an "informal statement of the cause of action," *see Wilson*, 226 S.W.2d at 311, as the statute does not require a particular form by which a claim may be stated.¹⁵ *See* 2 PRITCHARD ON WILLS 19 § 792.

¹⁵ Nevertheless, case law instructs that the claim be set out in written form as an informal pleading or statement of the cause of action and include documents if the claim is based on a document or instrument, such as a contract or promissory note, and that an itemized statement of the account be included when the claims is based on an open account. *See* 2 PRITCHARD ON WILLS 19 § 792. For a more thorough discussion of probate claims *see id.* 19 § 788, et seq. Should the estate deem the claim as written too vague or ambiguous, the estate may file a Rule 12.05 motion for a more definite statement. *See* Tenn. R. Civ. P. 12.05. As noted earlier, the Tennessee Rules of Civil Procedure apply to proceedings in probate courts

The introductory paragraph to the Estate's Motion to Dismiss reads:

Pursuant to TENN. R. CIV. P. 12.02(6), the Estate of Leo George Masulla ("Estate"), files this Motion to Dismiss the Creditor Claim of Ned Hanson. This Court should grant the Motion to Dismiss in its entirety because Mr. Hanson has offered no proof of a request for services or expectation to be paid for those services and further has offered no proof of a contract while alleging contractual damages.

The statement of the issues in the Estate's motion to dismiss identified four general grounds for dismissal:

1. Mr. Hanson has offered no proof of a request for services or an expectation to be paid for those services.
2. Mr. Hanson failed to show proof of a contract while alleging contract damages.
3. Mr. Hanson has failed to show a written contract in compliance with the Statute of Frauds.
4. Mr. Hanson has not shown an itemized accounting as required by statute, referring to Tennessee Code Annotated § 30-2-307(b).¹⁶

because courts exercising probate jurisdiction are courts of record. *See* Tenn. R. Civ. P. 1, Advisory Commission Comment.

¹⁶ The motion to dismiss incorporated by reference the Estate's Amended Exception to the claim, which is consistent with the grounds expressly set forth in the motion. The Amended Exception reads:

1. As to the "Personal Care of Leo Masulla, 2009–2022," in the amount of \$216,073.00, with unpaid balance of the same, Claimant has provided no documentation to demonstrate that the amounts purported to have been spent in the care of the Deceased were requested by the Deceased, agreed to be repaid by the Deceased, or in any other way constitute an unpaid debt or obligation owed by the Deceased to the Claimant. Absent proof of such documentation, it is the position of the Estate that such payments do not constitute an actionable claim of unpaid debt against the Estate of the Deceased.
2. As to the "Farm Management and Improvement Services, 2009–2022," in the amount of \$1,969,358.00, Claimant likewise demonstrates no contract or agreement with the Deceased purporting to bind the Deceased or his Estate as an unpaid debt or obligation. Absent proof of

In its ruling granting the motion to dismiss, the Probate Court stated:

[T]his claim is a collateral attack on the final judgment from Chancery Court, that was signed on September 13, 2024. [Mr. Hanson] voluntarily nonsuited the case and allowed time to expire for an appeal. The Court further finds that this claim fails because it is in violation of the statute of frauds, statute of limitations and the claim is unsubstantiated as the credit card statements are not sufficient to support the claim.

Therefore, pursuant to Rule 12.02(6) and the state law regarding claims, this Court GRANTS the Motion to Dismiss and dismisses the creditor claim of Ned Stephen Hanson against the Estate of Leo George Masulla.

Mr. Hanson insists this was error for several reasons, as discussed below.

As noted above, a Rule 12.02(6) motion does not challenge “the strength of the plaintiff’s proof.” *See Deja Vu*, 311 S.W.3d at 917. Yet, the Estate’s motion reveals the sufficiency of Mr. Hanson’s proof to be a basis of the motion to dismiss. This is apparent from the statement in the motion that reads “This Court should grant the Motion to Dismiss in its entirety because Mr. Hanson has offered no proof of a request for services or expectation to be paid for those services and further has offered no proof of a contract while alleging contractual damages.”

We also find error with some of the grounds upon which the probate court based its decision to dismiss Mr. Hanson’s claim. For example, the probate court described Mr. Hanson’s claim as a “collateral attack on the final judgment from Chancery Court.” However, the Estate did not allege in its motion that the claim should be dismissed because it was a collateral attack on the final judgment in the chancery court proceeding.¹⁷

such documentation, it is the position of the Estate that such expenditures do not constitute an actionable claim of unpaid debt against the Estate of the Deceased.

3. As to both sections detailed in the claim, Claimant has provided merely credit card and/or bank statements purporting to show that such expenditures occurred. Claimant has failed to provide any contract, note, loan agreement, management plan, employment contract, repayment agreement, or any other document, either formal or informal, reflecting an agreement between the Claimant and Deceased for obligation to repay any expenditures or provide payment for any work done on Claimant’s property.

¹⁷ “A collateral attack is an attempt to avoid, defeat, or evade a judgment, or to deny its force and effect, in some incidental proceeding not provided by law for the express purpose of attacking it.” *Andrews v. Fifth Third Bank*, 228 S.W.3d 102, 107 (Tenn. Ct. App. 2007) (citing 50 C.J.S. *Judgments* § 505 (1997)).

As Rule 7.02 instructs, “An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, **shall state with particularity the grounds therefor**, and shall set forth the relief or order sought.” *See* Tenn. R. Civ. P. 7.02. (emphasis added). The Estate did not identify collateral attack as a ground for dismissing Mr. Hanson’s claim. Thus, we reverse the dismissal of the claim to the extent it was based on a “collateral attack” without prejudice to the issue being reconsidered upon motion or at trial.

The probate court also ruled that “this claim fails because it is in violation of the statute of frauds.” However, the probate court’s judgment does not inform us of the basis of this ruling, meaning which component or section of the statute of frauds was allegedly violated by the claim or portions of the claim. Further, Mr. Hanson insists that his claim, or at least a portion thereof, is for unjust enrichment, which, he contends, is not subject to the statute of frauds. *See EnGenius Ent., Inc. v. Herenton*, 971 S.W.2d 12, 20 (Tenn. Ct. App. 1997).

We are reluctant to speculate as to the basis or scope of the decision to dismiss the claim based on the statute of frauds.¹⁸ Accordingly, we reverse the court’s ruling to the extent that the claim or portions thereof were based on the statute of frauds without prejudice to the issue being reconsidered upon motion or at trial.

The court also found that the claim should be dismissed based on the “statute of limitations,” but the trial court’s order does not specify which statute of limitation was relied upon or which parts of the claim were dismissed as time-barred.

The claim expressly states that it pertains to services, expenditures and improvements for the period from 2009 to the date of Mr. Masulla’s death in 2022, a span of thirteen years. The statute of limitation for breach of contract and unjust enrichment, which claims Mr. Hanson appears to assert, is six years. *See Great Am. Ins. Co. v. Nelson, Inc.*, No. 2:16-CV-02283-TLP-CGC, 2018 WL 6037542, at *2 (W.D. Tenn. Nov. 16, 2018) (*See* Tenn. Code Ann. § 28-3-109; *Estate of Lyons v. Baugh*, No. M2017-00094-COA-R3-CV, 2018 WL 3578525, at *4 (Tenn. Ct. App. July 25, 2018)). We find that, while it is

Although not stated, it is apparent the court was referring to the final judgment in the related chancery court proceeding, *Hanson v. The Estate of Leo Masulla*, No. 2022-CV-193.

¹⁸ A trial court’s order should afford a reviewing court, “a clear understanding of the basis of the trial court’s decision,” otherwise we are “left to wonder on what basis the court reached its ultimate decision.” *See Gooding v. Gooding*, 477 S.W.3d 774, 782 (Tenn. Ct. App. 2015) (citing *In re Estate of Oakley*, No. M2014-00341-COA-R3-CV, 2015 WL 572747, at *10 (Tenn. Ct. App. Feb. 10, 2015) quoting *Lovlace v. Copley*, 418 S.W.3d 1, 35 (Tenn. 2013)).

evident that much of Mr. Hanson's claim is time-barred, the trial court did not limit the scope of the dismissal to a specific period. Instead, the entirety of the claim was dismissed.

Mr. Hanson concedes that much of his claim is time-barred; nevertheless, he asserts that he may recover for services, expenditures and improvements within six years of Mr. Masulla's death. Because we decline to speculate as to which portions of the claim for services or expenditures should be dismissed as time-barred, we reverse the ruling without prejudice to the issue being reconsidered upon motion or at trial.

This leaves us with the part of the order stating that the claim is "unsubstantiated as the credit card statements are not sufficient to support the claim." While neither the claim nor the motion use the term "open account," the motion to dismiss states that "Mr. Hanson has not shown an itemized accounting as required by statute," referring to Tennessee Code Annotated § 30-2-307(b). That section of the statute reads:

(b) When any claim is evidenced by a written instrument, the instrument or a photocopy of the instrument shall be filed; when due by a judgment or decree, a copy of the judgment or decree certified by the clerk of the court where rendered shall be filed; and when due by open account, an itemized statement of the account shall be filed; and every claim shall be verified by affidavit of the creditor before an officer authorized to administer oaths, which affidavit shall state that the claim is a correct, just and valid obligation of the estate of the decedent, that neither the claimant nor any other person on the claimant's behalf has received payment of the claim, in whole or in part, except such as is credited thereon, and that no security for the claim has been received, except as thereon stated.

(Emphasis added).

Although Mr. Hanson attached over one thousand pages of documents to support his claim, he did not file an "itemized statement of the account." Moreover, as the probate court correctly found, his claim "is unsubstantiated as the credit card statements are not sufficient to support the claim," presuming the court was referring to an open account claim. Thus, Mr. Hanson failed to show that he was entitled to relief based on an open account. Accordingly, to the extent the dismissal of his claim was based on an open account, we affirm the dismissal of that portion of the claim. However, we are unable to ascertain from this record whether any portion of Mr. Hanson's claim is based on an open account. Further, we note that Mr. Hanson insists in his appellate brief that his claim is "based on a theory of unjust enrichment for services rendered and goods provided without payment having been made[.]" He also notes that Tennessee Code Annotated § 30-2-307(b) does not require an itemized statement or the filing of documents to support a claim of

unjust enrichment.¹⁹ Thus, we remand this issue to the trial court to identify the portion(s) of the claim to be dismissed based on the failure of Mr. Hanson to show that he was entitled to relief based on an open account.

For completeness, we restate the legal principle that a Rule 12.02(6) motion challenges only the legal sufficiency of the complaint, not the strength of the plaintiff's proof or evidence. See *Webb v. Nashville Area Habitat for Human.*, 346 S.W.3d at 426. As is explained in *Webb*,

A defendant who files a motion to dismiss “admits the truth of all of the relevant and material allegations contained in the complaint, but . . . asserts that the allegations fail to establish a cause of action.” *Brown v. Tenn. Title Loans, Inc.*, 328 S.W.3d 850, 854 (Tenn. 2010) (quoting *Freeman Indus., LLC v. Eastman Chem. Co.*, 172 S.W.3d 512, 516 (Tenn. 2005)).

. . . A trial court should grant a motion to dismiss “only when it appears that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.” *Crews v. Buckman Labs. Int’l, Inc.*, 78 S.W.3d 852, 857 (Tenn. 2002).

Id. (some internal citations omitted).

Therefore, except for an “open account” claim that, by statute, requires the filing of an “itemized statement of the account” and which Mr. Hanson failed to do, we find and hold that the probate court erred in dismissing Mr. Hanson’s claim, or portions thereof, on the basis that “the claim is unsubstantiated as the credit card statements are not sufficient to support the claim.” This is because the decision appears to be based on the sufficiency of the evidence, which is not a proper basis for dismissing a claim pursuant to a Rule 12.02(6) motion to dismiss.

III. FRIVOLOUS APPEAL

The Estate finally argues that Mr. Hanson’s appeal is frivolous, asserting that after a voluntary dismissal in the chancery court and a loss in probate court, Mr. Hanson knows his chance of success is slim and seeks only to delay an inevitable loss.

“A frivolous appeal is one that is devoid of merit, or one that has no reasonable chance of succeeding.” *Young v. Barrow*, 130 S.W.3d 59, 67 (Tenn. Ct. App. 2003)

¹⁹ The statute appears to require written documentation for three types of claims; 1) claims based on written instruments, 2) claims based on a judgment or decree, and 3) claims based on an open account. See Tenn. Code Ann. § 30-2-307(b).

(internal citations omitted). As discussed earlier, we must exercise our discretion in declaring appeals frivolous “sparingly.” *Eberbach*, 535 S.W.3d at 475.

Because Mr. Hanson has prevailed on several issues on appeal, his appeal is not frivolous. Thus, we decline to assign damages.

IN CONCLUSION

For the foregoing reasons, we reverse and modify the judgment of the probate court and remand this case for further proceedings consistent with this decision. Costs of appeal are assessed equally against the appellant, Ned Hanson, and the appellee, the Estate of Leo George Masulla.

FRANK G. CLEMENT JR., C.J.