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Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
April 22, 2026 Session

LISA THOMAS FOX v. NANCY CHEAIRS ET AL.

Appeal from the Probate Court for Shelby County
No. PR-25300 Kathleen N. Gomes, Judge

No. W2025-00481-COA-R3-CV

The instant appeal requires us to determine whether the probate court properly granted summary judgment in this case involving the ownership of interpleaded funds. Appellee Nancy Cheairs filed a federal district court copyright infringement lawsuit against Helen Thomas and her son, Appellee Mark Thomas. Helen Thomas died during the lawsuit's pendency. Cheairs was granted judgment against Mark Thomas, who subsequently filed bankruptcy. Appellee Lisa Fox, as Helen Thomas's Personal Representative, filed the instant interpleader action in the trial court, seeking guidance as to who would receive Mark Thomas' expected inheritance from Helen Thomas. Appellant/law firm, who represented Mark Thomas in the federal lawsuit, filed a notice of attorney's lien as to the interpleaded funds. The bankruptcy court discharged all of Mark Thomas' debts except for Cheairs' judgment and extinguished the law firm's purported lien. The trial court gave full faith and credit to the federal court orders and granted Cheairs' motion for summary judgment, awarding her the interpleaded funds. Appellant/law firm appeals. Discerning no error, we affirm.

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

STEVEN W. MARONEY, J., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and JEFFREY USMAN, J., joined.

Edward Thomas Autry, Memphis, Tennessee, for the appellant, Williams McDaniel, PLLC.

Irma W. Merrill, Memphis, Tennessee, for the appellee, Nancy Cheairs.

Mark T. Thomas, Memphis, Tennessee, appellee, pro se.¹

John F. Murrah and Regan Steepleton, Memphis, Tennessee, for the Appellee, Lisa Thomas Fox.

OPINION

I. Background

A. Federal Case

On or about July 10, 2020, Appellee Nancy Cheairs (“Cheairs”) sued Appellee Mark T. Thomas (“Thomas”), in the United States District Court for the Western District of Tennessee (“District Court”). On August 5, 2021, Cheairs amended her suit to add Thomas’ mother, Helen T. Thomas (“Decedent”), as a defendant. Cheairs sued for copyright infringement and resulting damages, alleging that Thomas and Decedent participated in a scheme to profit by creating and selling forgeries of Cheairs’ paintings (“Federal Case”).

During the pendency of the Federal Case, on May 28, 2021, Decedent executed an amendment to the Helen T. Thomas Revocable Living Trust. The amendment provided that, on Decedent’s death, all funds distributable to Thomas would be placed into the Mark. T. Thomas Trust, which contained a spend-thrift provision.

Decedent died on January 10, 2022, and her estate was opened in the Shelby County Probate Court (“trial court”) in February of 2022. Appellee Lisa Thomas Fox (“Personal Representative”), in her capacity as the personal representative of Decedent’s estate, Successor Trustee of the Helen T. Thomas Revocable Living Trust, and Successor Trustee of the John E. Thomas Residuary Trust (together, the “Estate Entities”), was substituted for Decedent as a defendant in the Federal Case on February 17, 2022.

On December 2, 2022, the District Court entered an order (“Sanctions Order”), which granted Cheairs’ motion for sanctions against the Estate Entities in the Federal Case pursuant to Federal Rule of Civil Procedure 37(b)(2). As relevant to the instant appeal, the District Court set aside Decedent’s May 28, 2021 amendment to the Helen T. Thomas Revocable Living Trust as to any potential judgment against Decedent or Thomas. In the Sanctions Order, the District Court limited “... this sanction only to any potential judgment against Defendants [*i.e.*, Decedent or Thomas] resulting from this case because [Decedent’s] sanctionable behavior was similarly limited to this case rather than a response

¹ Mr. Thomas did not appear for oral argument. Accordingly, we consider his appellate issues on brief.

to creditors in general.”

On February 24, 2023, Cheairs and Personal Representative filed a joint stipulation of dismissal with prejudice in the Federal Case. The Federal Case remained pending against Thomas. On February 28, 2023, the Estate Entities, through the Personal Representative, entered into an Amended Mutual Release and Settlement Agreement (“Settlement Agreement”) with Cheairs for an undisclosed sum. In the Settlement Agreement, the Estate Entities agreed not to appeal the Sanctions Order nor assign the right to appeal to any person or entity. In relevant part, the Settlement Agreement provided:

This agreement is not intended to discharge or release in any way [Cheairs’] claims against [Thomas] or [Cheairs’] claims against funds the Estate Entities are holding for the benefit of [Thomas]. This agreement is not intended to affect the validity or the enforcement of the Court’s Order Granting [Cheairs’] Motion for Sanctions [] dated December 2, 2022, as to any assets held by any of the Estate Entities for the benefit of [Thomas].

The Federal Case proceeded against Thomas, and Cheairs obtained a jury verdict in her favor against him in the amount of \$2,100,000 on February 28, 2023. On April 27, 2023, the District Court entered a Final Judgment confirming the jury verdict, awarding \$310,739.84 in attorney’s fees, and awarding a permanent injunction against Thomas. The total judgment in Cheairs’ favor against Thomas was \$2,410,739.84, plus post-judgment interest.

Thomas initially appealed this judgment. However, Thomas and Cheairs’ counsel subsequently filed a stipulation to voluntarily dismiss the appeal. Therefore, the United States Court of Appeals for the Sixth Circuit (“Sixth Circuit Court”) dismissed Thomas’ appeal of the judgment by order entered June 24, 2024. *Cheairs v. Thomas*, No. 23-5496, 2024 WL 4884226 (6th Cir. June 24, 2024). No further appeal was taken.

B. Interpleader Case

On March 2, 2023, the Personal Representative filed a complaint for interpleader in the trial court. In the complaint, the Personal Representative asserted she was “... in doubt as to where to distribute the remaining assets being held for the benefit of [Thomas] and/or his trust [established by Decedent per the May 28, 2021 amendment to the Helen T. Thomas Revocable Living Trust].” By order of March 2, 2023, the trial court recognized that the funds the Personal Representative held were funds due to Thomas and/or a trust established for his benefit. As such, the trial court authorized the payment of \$313,374.00 to the trial court clerk, to be held in an interest-bearing account pending further adjudication and final determination of the Federal Case.

On March 9, 2023, Cheairs filed an answer to the Personal Representative’s

interpleader action in the trial court, asserting that she had a priority claim to the funds on deposit with the trial court. On June 6, 2023, Cheairs filed a motion for summary judgment in the trial court. Cheairs again asserted that she had priority right to all interpleaded funds based on the Sanctions Order and judgment entered in the Federal Case.

On August 14, 2023, Williams McDaniel, PLLC (“Appellant”), who represented Thomas in the Federal Case, filed a notice of attorney’s lien in the trial court. Therein, Appellant claimed a lien against all proceeds received or to be received by Thomas from the Estate Entities in the amount of \$95,250.75. On October 25, 2023, Appellant filed a motion to intervene in the interpleader action, and the trial court granted the motion on January 8, 2025.

On January 20, 2025, Appellant filed a response to Cheairs’ motion for summary judgment, wherein it asserted that Decedent’s will, dated May 28, 2021, was admitted to probate by order of February 11, 2022, and no action had been filed to challenge the validity of the: (1) Decedent’s will; (2) Helen T. Thomas Revocable Living Trust as amended May 28, 2021; or (3) John E. Thomas Residuary Trust.

C. Bankruptcy Case

Meanwhile, on July 31, 2023, Thomas filed for bankruptcy in the Middle District of Florida Bankruptcy Court (“Bankruptcy Court”). On September 7, 2023, the Bankruptcy Court clerk gave notice that the deadline to file a proof of claim was December 11, 2023. On September 10, 2023, the clerk filed a certificate of notice that the clerk had served notice of the proof of claim deadline to all creditors listed in Thomas’ bankruptcy petition, including Appellant. Neither Appellant, nor Edward Thomas Autry (“Autry”), the Appellant law firm’s attorney who handled the case, filed a claim against the bankruptcy estate.

On November 6, 2023, Cheairs filed a complaint in Thomas’ bankruptcy case to exempt her claim from discharge. On November 9, 2023, Thomas received discharge from the Bankruptcy Court as to all creditors except Cheairs. By order of January 22, 2024, the Bankruptcy Court adjudicated Thomas’ debt to Cheairs as non-dischargeable and excepted it from discharge.

On March 6, 2024, the Bankruptcy Trustee (“Trustee”) filed a motion seeking approval of the sale of Thomas’ inheritance to Cheairs. The motion stated that, although Thomas had not disclosed it to the Bankruptcy Court, the Trustee had learned of Thomas’ expected inheritance and that same was held in this interpleader action. The Trustee asserted that “there is no disputing that the Asset [Thomas’ expected inheritance in this interpleader action] is the property of the bankruptcy estate.” The motion further asserted that, although Appellant had filed a “Notice of Lien,” it had no basis for its purported lien. Specifically, the Trustee argued that because Appellant was not a plaintiff’s attorney, i.e., it had not begun or prosecuted a suit on behalf of Thomas, it had no statutory lien under

Tennessee Code Annotated section 23-2-102 or -103 and no other basis for its claimed lien. The Trustee asked permission to sell Thomas' inheritance expectancy free and clear of liens. Notice of the Trustee's motion was sent to Appellant at the address set out on its "Notice of Lien." Appellant filed no response to the Trustee's motion. Nonetheless, Appellant was notified of the hearing on that motion.

By order of April 16, 2024, the Bankruptcy Court approved the sale of "all proceeds received or to be received by the Debtor, [Thomas] from the [Estate Entities]." The Bankruptcy Court noted that all creditors, including Appellant, had received proper notice of the Trustee's motion and ruled that Appellant, having not responded to the motion, was deemed to have consented to it. Accordingly, the Bankruptcy Court approved the sale of Thomas' inheritance to Cheairs, free and clear of the liens of all creditors, "including but not limited the liens alleged by [Appellant]," which lien the Bankruptcy Court deemed to be extinguished. Appellant did not appeal the Bankruptcy Court's April 16, 2024 order, but Thomas did. By order of June 11, 2024, the Bankruptcy Court dismissed Thomas' appeal.

D. Final Disposition of Interpleader Case

On February 12, 2025, the trial court heard Cheairs' motion for summary judgment. On March 6, 2025, the trial court entered an order granting Cheairs' motion, wherein it gave full faith and credit to the rulings of the District Court and Bankruptcy Court and awarded Cheairs' the interpleaded funds. On April 9, 2025, Appellant filed a notice of appeal.

II. Issues

Appellant raises the following issues as stated in its brief:

- I. Whether the Trial Court erred by granting [Cheairs'] Motion for Summary Judgment by order entered March 6, 2025.
- II. Whether the Trial Court erred, in the order granting [Cheairs'] Motion for Summary Judgment, that the Probate Court was bound by the December 2, 2022 Order entered in the U.S. District Court for the Western District of Tennessee which set aside the May 28, 2021 amendment to the Helen T. Thomas Revocable Living Trust as a discovery sanction against [Decedent].

In the posture of Appellee, Thomas raises the following additional issues for review as stated in his brief:

- I. Whether the Probate Court erred by granting summary judgment based on a Federal Sanctions Order that was void ab initio for lack of subject matter jurisdiction over a state law trust amendment.

II. Whether [Thomas] was denied his constitutional right to notice and a meaningful opportunity to be heard due to a total failure of service and the trial court's refusal to hear pending motions.

III. Whether the Probate Court erred in recognizing a "sale" of trust assets derived from a Florida bankruptcy proceeding initiated through identity theft and forensic forgery.

IV. Whether the Trial Court erred in allowing a creditor to reach assets strictly protected by a valid Tennessee spendthrift provision under Tenn. Code Ann. § 35-15-502.

V. Whether the Trial Court erred in failing to consider [Thomas'] documented medical incapacity as a basis for equitable tolling regarding prior procedural deadlines.

III. Full Faith and Credit and Preclusive Effect of Federal Court Orders

Many of the issues raised on appeal rest on the question of whether the trial court erred in giving full force and effect to the federal court orders, which include: (1) the District Court's Sanctions Order, (2) the District Court's judgment against Thomas on the jury verdict; (3) the Sixth Circuit Court's dismissal of Thomas' appeal from the District Court judgment; (4) the Bankruptcy Court's order excepting Cheairs' claim from discharge; (5) the Bankruptcy Court's order allowing the Trustee to sell Thomas' inheritance to Cheairs and extinguishing Appellant's purported attorney's lien; and (6) the Bankruptcy Court's dismissal of Thomas' appeal.

In its order granting Cheairs' motion for summary judgment, the trial court held:

This Court finds that the decisions of [the District Court], [the Sixth Circuit Court], and [the Bankruptcy Court] are entitled to full faith and credit from this Court. U.S. Constitution, Art. IV, § 1; Restatement (Second) of Judgments § 87. Tennessee courts give preclusive effect to decisions of federal courts. *Whitsey v. Williamson County Bank*, 700 S.W.2d 562, 564 (Tenn. Ct. App. 1985) ("A judgment in a particular action is res judicata as to all claims and issues which were relevant to and which could reasonably have been litigated in the prior action. This is true even though the prior case was in Federal court and the subsequent suit is brought in State Court.")

The record before this Court shows that the [District Court] entered an order setting aside, as to [Cheairs] only, certain creditor protections for [Thomas'] inheritance. That court . . . considered argument and briefing submitted to it by parties who are also parties to this Interpleader action.

The question of whether the creditor protections should be set aside as to [Cheairs] has been answered by the U.S. District Court for the Western District of Tennessee in a ruling that is now final. The time to argue the issue,

move for reconsideration, and appeal has passed. This Court recognizes that court's ruling as final and binding on this Court.

This Court, accordingly, is bound by that ruling to find that the funds interplead are funds that under [Decedent's] operative trust documents were left to [Thomas] free of creditor protections as to [Cheairs] and that the judgment awarded to [Cheairs] gives her the right to the funds that are the subject of this interpleader.

Further, the [Bankruptcy Court] has honored [the District Court's] order and ruled that the funds here interplead belong to [Cheairs]. That court has ruled that the U.S. District Court's order of December 22, 2022 requires the interplead funds to be paid to [Cheairs]. The [Bankruptcy Court's] order is entitled to full faith and credit in this Court. This Court recognizes that Court's rulings as final and binding on this Court.

The trial court's decision to give full faith and credit to the federal courts' orders is correct. The Tennessee Supreme Court has explained that:

The decisions of the federal courts are entitled to full faith and credit. U.S. Const. art. IV, § 1; Restatement (Second) of Judgments § 87 cmt. a. The preclusionary rules serve to “promote the comity between state and federal courts that has been recognized as a bulwark of the federal system.” *Allen v. McCurry*, 449 U.S. [90] at 96, 101 S. Ct. 411 [66 L.Ed.2d 308 (1980)]. Thus, Tennessee courts have given preclusive effect to the decisions of federal courts. *See, e.g., Whitsey v. Williamson County Bank*, 700 S.W.2d 562, 564 (Tenn. Ct. App. 1985) (holding that the summary dismissal of a claim in federal court provided a sufficient basis for invoking res judicata in state court).

Mullins v. State, 294 S.W.3d 529, at 537 n.3 (Tenn. 2009). Here, the trial court held that “[r]es judicata requires this Court to recognize the rulings of the U.S. District Court and the U.S. Bankruptcy Court.” We agree.

A. The Sanctions Order

Here, Thomas was a party to the Federal Case, where the District Court entered the disputed Sanctions Order. Accordingly, we conclude that the trial court did not err in applying the doctrine of res judicata to bar Mr. Thomas' attempts to set aside the District Court's Sanctions Order.

This Court has explained that

the principle of res judicata is applicable not only to the parties to a judgment but also their “privies”. In *Cantrell v. Burnett & Henderson Co.*, 187 Tenn.

552, 216 S.W.2d 307 (1948), the Court said:

(1) As early as the case of *Ragan v. Kennedy*, 1 Tenn. 91, 94, this Court in a per curium opinion stated the rule in the situation we have here to be this:

“In order to render a verdict in one action evidence in another, it is not necessary that the parties should be the same. It is sufficient if the party against whom the verdict is intended to be introduced was a party to the former suit, and that the same subject matter was directly put in issue by the pleadings.” (Emphasis added.)

That rule is stated as the law today by the text writer in 30 American Jurisprudence, page 920-921 in this language:

“It is a fundamental principle of jurisprudence that material facts or questions, which were in issue in a former action, and were there admitted or judicially determined, are conclusively settled by a judgment rendered therein, and that such facts or questions becomes *res judicata* and may not again be litigated in a subsequent action between the same parties or their privies, regardless of the form the issue may take in the subsequent action, whether the subsequent action involves the same or a different form or proceedings, or whether the second action is upon the same or a different cause of action, subject matter, claim, or demand, as the earlier action. In such cases, it is also immaterial that the two actions are based on different grounds, or tried on different theories, or instituted for different purposes, and seek different relief,” citing cases.

It will be noted that in the quotation just made there is contained the expression “in a subsequent action between the same parties *or their privies*.” (Emphasis added.) In discussing the meaning of the word “privy” in connection with the doctrine of *res judicata* on facts previously determined judicially, it is stated in 30 American Jurisprudence, page 957-958 that:

“It has been declared that privity within the meaning of the doctrine of *res judicata* is privity as it exists in relation to the subject matter of the litigation.”

.....

Privity is a term the meaning of which may in some cases be precise, as in the case of conveyor and conveyee or assignor and assignee; but there are other areas in which the meaning has uncertain bounds determined by the particular facts and the justice of the case.

Privity is defined as a derivative interest founded on or growing out of contract, connection, or bond of union between parties. *Hodgson v. Midwest Oil Co., CCA Wyo.* 17 F2d 71 (1927). Black's Law Dictionary Fourth Edition p. 1362.

Privy is a person who is in privity with another. One who is a partaker or has any part or interest in any action, matter or thing. Black p. 1362.

Lowe v. Ussery, No. 88-109-II, 1988 WL 103314, at *1-2 (Tenn. Ct. App. Oct. 5, 1988).

Under the *Lowe* analysis, there is no question that Thomas was in privity in the Federal Case and, thus, was bound by any orders entered in the case, including the Sanctions Order. Nonetheless, on appeal Thomas and Appellant argue that Thomas is not bound by the Sanctions Order.

First, Thomas and Appellant argue that the trial court was not bound by the Sanctions Order because the District Court “did not have the subject matter jurisdiction to render void [Decedent’s] May 28, 2021 amendment to the Helen T. Thomas Revocable Living Trust.”

The issue of the District Court’s subject-matter jurisdiction was raised and decided by that court. As set out in the Sanctions Order:

Because [the Personal Representative] argues that the Court lacks subject matter jurisdiction to impose this sanction. . . . [the Personal Representative] argues that [Cheairs’] requested sanction that the May 28 Amendment be set aside and not considered here is barred by the “Probate Exception” to the federal courts’ subject matter jurisdiction.

Under the probate exception, federal courts are prohibited from “exercising jurisdiction over certain conflicts involving property subject to a state court probate proceeding.” *Osborn v. Griffin*, 865 F.3d 417, 434 (6th Cir. 2017). The Supreme Court, however, has noted that this exception is “of distinctly limited scope.” *Id.* (quoting *Marshall v. Marshall*, 547 U.S. 293, 310 (2006)). According to the Sixth Circuit, the probate exception applies only in three circumstances: “(1) if the plaintiff seeks to probate a will; (2) if the plaintiff seeks to annul a will; and (3) if the plaintiff seeks to reach the res over which the state court had custody.” *Chevalier v. Estate of Barnhart*, 803 F.3d 789, 801 (6th Cir. 2015) (cleaned up). Assets transferred out of an

estate during the decedent's lifetime are not subject to the probate court's disposition and thus not subject to the probate exception. *Wiseearver v. Moore*, 489 F.3d 747, 750 (6th Cir. 2007).

The Court agrees with Cheairs that her requested relief does not fall under any of the three circumstances that would bar it under the probate exception. First, the sanction does not include the probating of [Decedent's] will. Second, Cheairs's requested sanction does not seek to annul [Decedent's] will. The document Cheairs asks the Court to set aside is an amendment to a living trust, not an amendment to her will. Moreover, Article VI of [Decedent's] Trust directs the trustee to divide the trust's assets upon her death, a process separate from her estate being probated pursuant to her will. Therefore, annulling the May 28 Amendment would not affect the probating of [Decedent's] estate's assets and would not constitute an attempt to annul a portion of [Decedent's] will.

Finally, Cheairs's requested sanction does not seek to reach the res over which the state court has custody. There is a distinction here between in personam and in rem actions. The former involves actions "brought against a person rather than property," while the latter includes actions "determining title to property and the rights of the parties, not merely among themselves, but also against all persons at any time claiming an interest in that property . . . in other words, in rem actions are fights over a property or a person in the court's control." *Chevalier*, 803 F.3d at 801-02 (cleaned up). In personam actions fall outside of the probate exception and may be heard in federal court while in rem actions are barred. *Id.* at 804.

Fraudulent transfer actions under the Uniform Fraudulent Transfer Act ("UFTA"), which Tennessee enacted at Tenn. Code Ann. §§ 66-3-301 *et seq.*, are causes of action brought against the debtor in personam. *SuVicMon Development, Inc. v. Morrison*, 991 F.3d 1213, 1222 (11th Cir. 2021) (citing *Parker v. Handy*, 624 F.3d 19, 21-22 (1st Cir. 2010) (finding fraudulent transfer actions under Alabama's substantially similar version of the UFTA as in personam actions). As the court in *SuVicMon* explains, actions under the UFTA "need not be based on a judgment at all, only an underlying claim by a creditor" and require "proof of wrongful . . . conduct by the debtor (namely actual or constructive fraud)." *Id.* Moreover, UFTA actions do not necessarily grant creditors property interests in the property at issue as certain remedies afforded to creditors under the UFTA, enacted in Tennessee at Tenn. Code Ann. §§ 66-3-308, merely avoid the transfer as to the creditor who must then proceed to levy execution after judgment and only then would obtain [a property] interest." *Id.* These unique factors distinguish UFTA actions from typical execution proceedings and collective actions which constitute in rem actions barred by the probate exception.

Because Cheairs's action under Tennessee's UFTA is in personam, particularly in light of the fact that Cheairs seeks only the setting aside of the

May 28 Amendment and not an outright property interest in [Decedent's] estate or trust assets, her requested sanction is not barred by the probate exception.

(Citations to the Federal Case record omitted).

Although the issue of the District Court's subject-matter jurisdiction was not specifically raised by Thomas or Appellant in the Federal Case, that question was fully addressed and adjudicated by the District Court. As such, any argument that the District Court lacked subject-matter jurisdiction to issue its Sanctions Order is barred by the doctrine of res judicata. *Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 n.9, 102 S. Ct. 2099, 2104, 72 L. Ed. 2d 492 (1982) (holding that "[a] party that has had an opportunity to litigate the question of subject-matter jurisdiction may not [] reopen that question in a collateral attack upon an adverse judgment"); *Chicot Cnty. Drainage Dist. V. Baxter State Bank*, 308 U.S. 371, 377, 60 S. Ct. 317, 320, 84 L. Ed. 329 (1940) ("The court has the authority to pass upon its own jurisdiction and its decree sustaining jurisdiction against attack, while open to direct review, is res judicata in a collateral action.").

In the alternative, Thomas and Appellant argue that the federal Sanctions Order is not binding on Thomas because it only addresses discovery abuses on the part of Decedent. Again, the District Court addressed this issue. As set out in the Sanctions Order:

[The Personal Representative] argues that imposing Cheairs's requested sanction would punish the wrong litigant. Specifically, [the Personal Representative] notes that [Decedent] is deceased and that only Thomas would be harmed as the beneficiary of his mother's trust as amended by the May 28 Amendment.

The Court, however, disagrees. First and foremost, the question of whether a default harms the wrong party is an issue for [Thomas] to raise, and he has not done so. [Thomas] was served the Motion on May 17, 2022. His response was therefore due fourteen (14) days later, on May 31, 2022, pursuant to Local Rule 7.2(a)(2), yet he has filed no response despite filing other motions since May 17, 2022. While the Court is not granting Cheairs's Motion merely as a result of [Thomas'] lack of response, it is unable to consider [Thomas'] arguments in opposition to the Motion and they are therefore waived.

Moreover, the Court has found that the execution of the May 28 Amendment, merely one day after [Decedent's] deposition, and which protects virtually all of her assets formerly bequeathed to [Thomas] outright from potential judgment creditors, is circumstantial evidence of an intent to thwart any judgment against [Thomas]; the transfer bears many of the badges of fraud as listed in Tennessee's Uniform Fraudulent Transfer Act at Tenn.

Code Ann. § 66-3-305(b), including that the transfer was to an insider (her son); the transfer was incurred after the onset of Cheairs's lawsuit; and the transfer was concealed. While [Decedent] has since died, the Court finds no reason why this potentially fraudulent intent, which began prior to her addition as a party and continued after it, should not be frustrated by sanctions preventing its continuation.

(Citations to the Federal Case record omitted). The District Court's order is entitled to full faith and credit. The District Court clearly held that Thomas waived the issue of improper party or prejudice by failing to raise those issues in the Federal Case. His attempt to re-litigate the same issues in this appeal is foreclosed by the doctrine of res judicata. In short, the federal Sanctions Order is binding on the trial court and on Thomas.

Having determined that the Sanctions Order is entitled to full faith and credit in the trial court, we briefly discuss Thomas and Appellant's argument concerning the effect of the Settlement Agreement by and between the Personal Representative, in her official capacity, and Cheairs. Both Appellant and Thomas argue that the Settlement Agreement is not binding on them. In support of their argument, both cite the language from the Settlement Agreement that, "This agreement is not intended to affect the validity or the enforcement of the Court's Order Granting [Cheairs'] Motion for Sanctions dated December 2, 2022, as to any assets held by any of the Estate Entities for the benefit of [Thomas]" and argue that the Settlement Agreement cannot operate to validate or enforce the Sanctions Order. We agree.

As noted in Appellant's brief (and adopted in Thomas' brief), "[Thomas] was not a party to the [S]ettlement [A]greement with [the Personal Representative] nor was he in privity with [Decedent] or claiming under her. Thus, any purported settlement terms, including the purported preservation of enforcement of the [District Court's Sanctions Order] as to any assets held by any of the Estate Entities for the benefit of [Thomas], was not binding on [Thomas]." This is true.

However, this argument ignores the fact that the Settlement Agreement cannot operate to "preserve [the] enforcement" of the District Court's order. In other words, although Thomas and Appellant are not bound by the Settlement Agreement, or any language therein, this fact does not negate the validity of the actual Sanctions Order. The order stands on its own, and is not subject to the separate agreements, waivers, or negotiations of any of the parties to this lawsuit. Accordingly, the disputed language, *i.e.*, "This agreement is not intended to affect the validity or the enforcement of the [Sanctions Order]" is of no practical effect.

Still, Appellant argues that,

once Cheairs entered into a [S]ettlement [A]greement with [the Personal

Representative], . . . and dismissed her from the Federal Copyright case, the purported discovery sanction against [Decedent] was also dismissed from the Federal Copyright case despite the efforts by Cheairs to retain the sanction against [Thomas].

In the first instance, we note that the Sanctions Order did more than impose sanctions for Decedent's discovery abuses. As set out in context above, the District Court noted that Decedent's amendment to her trust bore "many of the badges of fraud." We agree. If the District Court's decision to set aside that amendment was found to be of no force or effect in the trial court, then Thomas would be in a position to continue the potentially fraudulent scheme which his mother began. This would certainly negate the District Court's goal of "frustrat[ing] [this fraudulent intent] by sanctions preventing its continuation." Decedent's death does not negate the need for such protections.

Regardless, it appears that neither Thomas nor Appellant preserved any issue concerning the Settlement Agreement. In its order granting Cheairs' motion for summary judgment, the trial court states:

The record before this Court shows that the U.S. District Court for the Western District of Tennessee entered an order setting aside, as to [Cheairs] only, certain creditor protections for [Thomas'] inheritance. That court . . . considered argument and briefing submitted to it by parties who are also parties to this Interpleader action.

The question of whether the creditor protections should be set aside as to Cheairs has been answered by [the District Court] in a ruling that is now final. The time to argue the issue, move for reconsideration, and appeal has passed. This Court recognizes that court's ruling as final and binding on this Court.

We agree with the trial court. In her answer to the Personal Representative's interpleader action in the trial court, Cheairs averred that, "[a]t all times relevant to the motion for sanctions [Thomas] was a party to the Federal Lawsuit. He had notice of the motion for sanctions. He filed nothing in opposition to that motion." Furthermore, Cheairs' answer includes the following:

37. [Cheairs] settled her claims in the Federal Lawsuit against [the Personal Representative] in her capacity as Executor [for] . . . the "Estate Entities" and provided as follows concerning those entities:

This agreement is not intended to discharge or release in any way [Cheairs'] claims against [Thomas] or [her] claims against funds the Estate Entities are holding for the benefit of [Thomas]. This agreement is not intended to affect the validity

or the enforcement of the [district court's sanctions order] dated December 2, 2022, as to any assets held by any of the Estate Entities for the benefit of [Thomas].

The same information is included in Cheairs' statement of undisputed material facts filed in support of her motion for summary judgment. Furthermore, the Sanctions Order and the Settlement Agreement were included as attachments to Cheairs' motion. Neither Appellant nor Thomas took any action to challenge the foregoing averments as set out in Cheairs' filings.

In addition, there is no indication that either Appellant or Thomas objected to the Settlement Agreement, or any language therein, during the pendency of the Federal Case. Indeed, in its order granting the bankruptcy Trustee's motion to approve the Settlement Agreement, the Bankruptcy Court specifically found that "the [Trustee's] motion was properly served upon all interested parties in accordance with the Federal Rules of Bankruptcy Procedure, and that no parties filed a response or objection to the motion." Having failed to preserve any issue regarding the validity of the Settlement Agreement or its effect, if any, on the Sanctions Order, we agree with the trial court's conclusion that, "The time to argue the issue, move for reconsideration, and appeal has passed," and the Sanctions Order is "final and binding on [the trial court]."

Finally, Thomas timely filed an appeal of the federal judgment to the Sixth Circuit Court. Nonetheless, that appeal was dismissed by the Sixth Circuit Court following a stipulation filed by Thomas and Cheairs' counsel to voluntarily dismiss the appeal. We cannot now know how Thomas' arguments concerning the Sanctions Order would have fared in that appeal, but we know that such arguments should have been made there, not here.

B. Bankruptcy Court Order Authorizing Sale of Assets

Concerning the validity of the Bankruptcy Court's October 17, 2024 order authorizing the Trustee to sell certain assets of Decedent's estate free and clear of liens, claims, encumbrances, and interest, Appellant argues in its brief that, "[b]ecause the [District Court] in the Federal Copyright case was without subject matter jurisdiction to adjudicate the validity of the Revocable Trust, as amended May 28, 2021, . . . the Bankruptcy Court was likewise without subject matter jurisdiction to purportedly 'sell' the debtor's ([Thomas']) interest in all proceeds received from [the Decedent's estate]." We have held above that the question of the District Court's subject-matter jurisdiction to enter its Sanctions Order was adjudicated by that court such that any further argument concerning this issue is barred by the doctrine of res judicata. Accordingly, Appellant's argument is moot.

Turning to Thomas' brief, he argues that the Bankruptcy Court's order is not binding

on him for the following reasons:

Grace Warmbier, a Certified Forensic Document Examiner, conducted an analysis of the signatures on the bankruptcy petition. Ms. Warmbier concluded with “virtual certainty” that the signatures were “identical reproductions of one another (copy/paste)” and characterized them as “non-genuine/fraudulent.” (See Addendum: Handwriting Examination Report).

Medical Condition During Relevant Period

From 2021 through 2024, [Thomas] experienced severe neurological and psychiatric conditions following a head injury. Hospital records document that he was admitted with acute psychosis, delirium, and memory loss. Medical records indicate he was unable to identify his own name or the current year during certain periods. Dr. Ronya Green has confirmed that these conditions substantially impaired [Thomas’] ability to manage legal affairs during this time. See Addendum.

The “Addendum” referenced above are attached to Thomas’ brief. However, these documents are not part of the appellate record. It is well settled that this Court may not consider documents merely attached to briefs that were not properly made a part of the record in the trial court or supplemented on appeal. Tenn. R. App. P. 13(d); *see Carney v. State*, No. M2006-01740-CCA-R3-CO, 2007 WL 3038011, at *4 (Tenn. Crim. App. Oct. 17, 2007) (stating that “documents attached to an appellate brief but not included in the record on appeal cannot be considered by this court as part of the record on appeal”) (internal citation omitted); *Forrest v. Rees*, No. 01C01-9411-CC-00387, 1996 WL 571765, at *3 (Tenn. Crim. App. Oct. 8, 1996) (stating that “attachments to briefs are not evidence and will not be considered by the appellate courts”); *Pinney v. Tarpley*, 686 S.W.2d 574, 579 (Tenn. Ct. App. 1984) (stating that “[m]erely attaching a document to a pleading does not place that document in evidence”).

Regardless, the arguments espoused by Thomas concerning the purported fraudulent bankruptcy proceedings and his medical issues should have been raised in the federal courts, or, at latest, in the trial court. There is no evidence that Thomas did so. As such, even if we could consider the addenda to his brief, we would conclude that this issue is waived. *Moses v. Dirghangi*, 430 S.W.3d 371, 381 (Tenn. Ct. App. 2013) (citing *Waters v. Farr*, 291 S.W.3d 873, 918 (Tenn. 2009)) (“It is well settled that issues not raised at the trial level are considered waived on appeal.”).

Finally, as with the Federal Case, we note that Thomas’ appeal of the Bankruptcy Case was dismissed due to his failure to pay the filing fee, leaving the orders from the Bankruptcy Court intact.

IV. Summary Judgment

Having determined that the District Court and Bankruptcy Court's orders are entitled to full faith and credit, we now turn to the central question in this appeal—whether the trial court erred in granting Cheairs' motion for summary judgment. As we have explained:

Summary judgment is appropriate when no genuine issues of material fact exist, and the movant meets its burden of proving that it is entitled to a judgment as a matter of law. Tenn. R. Civ. P. 56.04; *Bryant v. Bryant*, 522 S.W.3d 392, 399 (Tenn. 2017). It is “a preferred vehicle for disposing of purely legal issues.” *Hawkins v. Case Mgmt. Inc.*, 165 S.W.3d 296, 299 (Tenn. Ct. App. 2004) (citing *Byrd v. Hall*, 847 S.W.2d 208 (Tenn. 1993); *Bellamy v. Fed. Express Corp.*, 749 S.W.2d 31 (Tenn. 1988)). Because the decision to grant a summary judgment motion is a question of law, our review is de novo with no presumption of correctness. *Tatham v. Bridgestone Americas Holding, Inc.*, 473 S.W.3d 734, 748 (Tenn. 2015). Therefore, “we make a fresh determination of whether the requirements of Rule 56 of the Tennessee Rules of Civil Procedure have been satisfied.” *Rye v. Women's Care Ctr. of Memphis, MPLLC*, 477 S.W.3d 235, 250 (Tenn. 2015). Those requirements are that the filings supporting the motion show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Tenn. R. Civ. P. 56.04. We must take the strongest view of the evidence in favor of the nonmoving party, allowing all reasonable inferences in its favor. *Perkins v. Metro. Gov't of Nashville*, 380 S.W.3d 73, 80 (Tenn. 2012).

Summary judgment in this case was granted upon the trial court's determination that collateral estoppel applied to the material factual issues. “[S]ummary judgment is an appropriate vehicle for resolving a collateral estoppel claim.” *Mullins v. State*, 294 S.W.3d 529, 535 (Tenn. 2009). Whether collateral estoppel applies to a particular set of facts is a question of law. *Torres v. Bridgestone/Firestone N. Am. Tire, LLC*, 498 S.W.3d 565, 573 (Tenn. Ct. App. 2016). Hence, our review of that determination is de novo with no presumption of correctness afforded the trial court. *Id.*

White, 639 S.W.3d 568, 576-77.

As the trial court noted in its order granting Cheairs' motion for summary judgment, “No party has filed any response to any of the three Statements of Undisputed Facts [filed by Cheairs]. No party contends that there is a genuine issue as to any material fact.” From our review, we agree. As such, the following relevant facts are undisputed for purposes of summary judgment:

- Thomas filed nothing in opposition to Cheairs' motion for sanctions in the Federal

Case, which motion resulted in the federal court's December 2, 2022 Sanctions Order.

- The District Court's Sanctions Order set aside Decedent's amendment to the Decedent's trust only as to any judgment awarded to Cheairs in the Federal Case;
- The funds interpleaded in the trial court represent funds to be paid into the trust that is the subject of the District Court's December 2, 2022 order;
- Cheairs received a money judgment against Thomas in the Federal Case;
- On October 25, 2023, Appellant filed a motion to intervene, which the trial court granted by order of January 8, 2025;
- Neither Appellant nor Autry filed a claim against Thomas' bankruptcy estate;
- As to all creditors but Cheairs, Thomas received a discharge from the Bankruptcy Court on November 9, 2023.
- By order of January 22, 2024, the Bankruptcy Court adjudicated Thomas' debt to Cheairs as non-dischargeable and excepted from discharge.
- On March 6, 2024, the Bankruptcy Trustee filed a motion asking for approval of the sale of Thomas' inheritance to Cheairs. Therein, the Trustee acknowledged that Appellant had filed a "Notice of Lien," but asserted that it had no basis for same.
- Appellant received notice of the Trustee's motion and the hearing date on same.
- Appellant filed no response to the Trustee's motion.
- On April 16, 2024, the Bankruptcy Court approved the sale of Thomas' inheritance to Cheairs, free and clear of the liens of all creditors, "including by not limited the liens alleged by the Firm [Appellant]," which liens the Bankruptcy Court deemed extinguished;
- Appellant did not appeal the Bankruptcy Court's April 16, 2024 order.
- Thomas filed an appeal of the April 16, 2024 order, and the Bankruptcy Court dismissed Mr. Thomas' appeal by order entered June 11, 2024.

Although the Bankruptcy Court and District Court orders are entitled to full force and effect in the trial court, Appellant and Thomas argue that the interpleaded funds were not subject to the bankruptcy proceedings. Specifically, Appellant contends that, "any interest Thomas may have in the Revocable Trust, as amended May 28, 2021 and/or the John E. Thomas Residuary Trust was excluded from the bankruptcy estate and could not have been purportedly 'sold' by the Chapter 7 Bankruptcy Trustee. Any such purported sale was void as violative of applicable Tennessee law." Likewise, Thomas asserts that "any interest [Thomas] may have in the Revocable Trust as amended May 28, 2021 and the John E. Thomas Residuary Trust was excluded from the bankruptcy estate." In support of their argument, both Appellant and Thomas rely on the case of *In re Wachter*, where the United States Bankruptcy Court for the Eastern District of Tennessee explained:

The commencement of a bankruptcy case "creates an estate." 11 U.S.C.A. § 541(a). The bankruptcy estate consists of, among other things, "all legal or equitable interests of the debtor in property as of the

commencement of the case.” 11 U.S.C.A. § 541(a)(1). Section 542 requires a debtor to turn over all property of the estate to the trustee for administration. Likewise, if property of a debtor is in the hands of custodians, including trustees of a trust, said custodians must deliver the property and any proceeds therefrom to the trustee pursuant to 11 U.S.C.A. § 543(b).

Although the scope of § 541 was intended to be broad, “including interests of all types and degrees of contingency, it is limited to interests in existence at the onset of the bankruptcy case.” *In re Taronji*, 174 B.R. 964, 969 (Bankr. N.D. Ill. 1994); *see also Zimmerman v. Spencer (In re Spencer)*, 306 B.R. 328, 332 (Bankr. C.D. Cal. 2004) (“An asset is determined to be estate property by examining the nature of the asset on the date the bankruptcy petition was filed.”). Additionally, under § 541(c)(2), “[a] restriction on the transfer of a beneficial interest of the debtor in a trust that is enforceable under applicable nonbankruptcy law is enforceable in a case under this title.” 11 U.S.C.A. § 541(c)(2). Applicable nonbankruptcy law includes “all laws, state and federal, under which a transfer restriction is enforceable.” *Forbes v. Lucas (In re Lucas)*, 924 F.2d 597, 601 (6th Cir.1991) (quoting *Anderson v. Raine (In re Moore)*, 907 F.2d 1476, 1477 (4th Cir.1990)); *see also Patterson v. Shumate*, 504 U.S. 753, 112 S.Ct. 2242, 2246, 119 L.Ed.2d 519 (1992).

“[P]roperty of a debtor falling within the definition of this exception is excluded from the bankruptcy estate.” *Lucas*, 924 F.2d at 600. This includes spendthrift trusts which are “[c]haracterized by prohibitions against using trust income or corpus to satisfy creditors of the beneficiary[.]” *Bucy v. Evans (In re Evans)*, 88 B.R. 813, 814 (Bankr. M.D. Tenn. 1988); *see also Shubert v. Katz (In re Katz)*, 220 B.R. 556, 565 (Bankr. E.D. Pa.1998) (“[I]t is well established that spendthrift trusts are excluded entirely from bankruptcy estates under § 541(c)(2).”).

The courts in construing this exception to § 541 uniformly took the position that only the really true spendthrift trusts would fall within this exception and if the beneficiary has any current right to reach the corpus of the trust or obtain any benefits under the trust other than that which is provided by the Trustee of the trust, it will not be recognized as an exception to § 541 and the Debtor’s interest in the corpus of the trust would be properties of the estate.

Jensen v. Davis (In re Davis), 110 B.R. 573, 575 (Bankr. M.D. Fla.1989). Accordingly, “spendthrift and support trusts are excluded from a debtor’s bankruptcy estate to the extent they are protected from creditors under

applicable state law.” *Menotte v. Brown (In re McLean)*, 303 F.3d 1261, 1265 (11th Cir.2002).

Mostoller v. Wachter (In re Wachter), 314 B.R. 365, 371-72 (Bankr. E.D. Tenn. 2004).

In addition to its argument that the interpleaded funds were excluded from Thomas’ bankruptcy estate, as stated in its brief, Appellant further argues that:

Assuming *arguendo* that the May 28, 2021 amendment is rendered invalid, then [Decedent] should be held to have died intestate. Specifically, the Revocable Trust as amended on May 28, 2021 is the residuary beneficiary of the Last Will and Testament of [Decedent] executed May 28, 2021. If the Revocable Trust as amended on May 28, 2021 is rendered void, then the residuary clause lapses and the residuary estate passes to the decedent’s heirs-at-law. *See In re Estate of Swift*, 2012 Tenn. App. LEXIS 802 (Tenn. Ct. App. Nov. 20, 2012). Alternatively, if the residuary clause is not determined to lapse entirely, then the residuary estate passes to the Revocable Trust, as amended and restated on April 13, 2018. *See Locke v. Estate of Estate of Rose*, 2014 Tenn. App. LEXIS 392 (Tenn. Ct. App. June 30, 2014) (If 2006 Trust Agreement were voided, the predecessor trust(s) would become effective).

The aforementioned distribution of assets is true with respect to all assets passing through the Last Will and Testament (*i.e.*, probate estate) of [Decedent], the Revocable Trust as amended May 28, 2021 and the John E. Thomas Residuary Trust. Thus, any assets would be distributed either via intestate distribution to the [Decedent’s] heirs-at-law, including [Thomas], or through the Revocable Trust as amended and restated on April 13, 2018, which provides for an outright distribution to the decedent’s children, including [Thomas].

We conclude that the foregoing arguments are merely attempts at a collateral attack on the Bankruptcy Court’s valid and enforceable order. As this Court has explained

“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.” 50 C.J.S. Judgments § 505 (1997). It is well settled that a judgment or order cannot be collaterally attacked unless it affirmatively appears, on the face of the record, “(1) that the Court had no general jurisdiction of the subject matter of the litigation; or (2) that the decree itself is wholly outside of the pleadings, and no binding consent thereto is shown in the record; or (3) that the Court had no jurisdiction of the party complaining, in person or by representation of interest; in which case it is void only as to such party, or his privies.” *Gentry v. Gentry*, 924 S.W.2d

678, 680 (Tenn.1996). However, “[w]here no relief is sought against a judgment, as, for instance, where the proceeding is for the purpose of construing the judgment, or determining its scope and effect or its nature, there is no infraction of the rule against collateral attack.” 50 C.J.S. Judgments § 505 (1997).

Andrews v. Fifth Third Bank, 228 S.W.3d 102, 107-108 (Tenn. Ct. App. 2007). None of the criteria for collateral attack are present in this record. As such, Appellant and Thomas are estopped from asserting that the interpleaded funds were not properly part of the bankruptcy estate and under the purview of that court.

Any interest Thomas had in the Decedent’s trusts vested as of the date of Decedent’s death, January 10, 2022. Thomas filed for bankruptcy on July 31, 2023. Accordingly, and contrary to the foregoing arguments, any legal or equitable interest Thomas might claim under Decedent’s will or trusts became assets of the bankruptcy estate. *See In re Bunch*, 249 B.R. 667, 669-670 (Bankr. D. Md. 2000) (citing *In re Royal*, 165 B.R. 802 (Bankr. D. Md. 1994); 11 U.S.C. § 541) (“The filing of a bankruptcy petition creates a bankruptcy estate that comprises all of the debtor’s legal and equitable interests in property.”). As the *Royal* Court held, “when the debtor became entitled to an inheritance, that inheritance became property of the estate[.]” *In re Royal*, 165 B.R. at 803 (holding as non-exempt an inheritance that became property of the bankruptcy estate pursuant to 11 U.S.C. § 541(a)(5)(A)). Accordingly, as of the date of his bankruptcy filing, Thomas, individually, no longer had a claim to, or ownership of, his expected inheritance.² Rather, bankruptcy law provides that the Bankruptcy Trustee becomes the owner of all assets in the bankruptcy estate. 11 U.S.C. § 542. So, on the filing of the bankruptcy, the Bankruptcy Trustee became the owner of all of Thomas’ legal and equitable interests in the inherited funds, including those held in this interpleader action. *Id.*

The Bankruptcy Trustee is responsible for liquidating the estate’s assets. 11 U.S.C. § 523. Unless a creditor seeks exemption from discharge, bankruptcy discharges the debts a filer owed pre-petition. 11 U.S.C. § 727. Here, the Bankruptcy Court granted Thomas a discharge by order entered on November 9, 2023. Also, the Bankruptcy Court gave notice to Thomas’ creditors that the deadline to file claims against the bankruptcy estate was December 11, 2023.

On, November 7, 2023, Cheairs filed an adversary petition in Thomas’ bankruptcy to exempt her claim from discharge. Cheairs also filed a claim against the bankruptcy estate on November 28, 2023. By order of January 22, 2024, the Bankruptcy Court adjudicated Thomas’ debt to Cheairs as nondischargeable and excepted it from discharge. No appeal has been taken from that order. It is final.

² This fact negates Thomas’ argument that he is not bound by the trial court’s order because he did not receive notice of the interpleader complaint.

Because the Bankruptcy Court granted Thomas a discharge on November 9, 2023, and because Cheairs is the only creditor whose claim was adjudicated non-dischargeable, she is the only creditor of Thomas whose debt was not discharged in bankruptcy.

The Bankruptcy Trustee has authority, on court approval, to sell the assets of a bankruptcy estate free and clear of liens. 11 U.S.C. § 363. The Bankruptcy Trustee asked the Bankruptcy Court for permission to sell Thomas' expectancy interest in Decedent's estate to Cheairs. The Bankruptcy Trustee's motion concerning the proposed sale disclosed that Appellant asserted a lien in this interpleader action. The Trustee gave notice to Appellant of the motion by mailing to the address given by Appellant on its "Notice of Lien"; Appellant also received notice of the hearing on that motion.

After notice to all creditors, objection from Thomas, and an evidentiary hearing, the Bankruptcy Court entered an order approving the sale. That order recognized that the Trustee had served the motion on all creditors.

In short, the Bankruptcy Court considered the facts presented concerning Appellant's claimed lien and concluded that it has no lien on Thomas' expected inheritance. The Bankruptcy Court stated that, "The liens of any and all creditors, including but not limited [to] the liens alleged by the Firm [Appellant], shall be extinguished automatically upon the sale of the asset." The Bankruptcy Court further held that, "The interests of any parties who may have had an interest in the Asset shall be extinguished upon entry of this Order becoming final and not subject to appeal." Finally, the Bankruptcy Court approved the sale of Thomas' expectancy of inheritance under Decedent's will and trusts to Cheairs because she was the only party with any right, title or interest in the assets that Thomas might expect to inherit. Thomas appealed the Bankruptcy Court's order, but Appellant did not. By Order entered June 11, 2024, the Bankruptcy Court dismissed that appeal.

The Bankruptcy Court's April 16, 2024 order is a valid, final order. Any attempt to avoid or defeat that order is a collateral attack on the judgment, which is not allowed under Tennessee law. For example, in *State ex rel. City of Chattanooga v. 2003 Delinquent Taxpayers*, No. E2008-00457-COA-R3-CV, 2009 WL 137216 (Tenn. Ct. App. Jan. 21, 2009), a company that owned real property in Chattanooga filed for bankruptcy in Delaware. *Id.* at *1. Chattanooga filed a proof of claim for unpaid property taxes. *Id.* Chattanooga did not object to a sale of this property. *Id.* However, following the sale, Chattanooga filed suit, attempting to collect unpaid taxes from the purchaser of the property. *Id.* at *2. In that case, we held, in pertinent part, that:

The trial court [] correctly ruled that the City was barred from collaterally attacking the Delaware Bankruptcy Court's valid final order in Tennessee Chancery Court. . . . [citing law on collateral estoppel] In this case, the Bankruptcy Court's order expressly states that governmental entities are

“forever barred, estopped and permanently enjoined from asserting” any prior “liens, claims, encumbrances and interests” against the real property at issue, so it is clear that the City’s request that the Chancery Court enforce an allegedly unpaid tax lien incurred prior to the bankruptcy action is a direct attack on the earlier judgment. . . . Any claim the City had should have been raised in the Delaware Bankruptcy Court, which retained jurisdiction and in which the City had notice of all pertinent proceedings and ample opportunity to present its arguments regarding the sale of debtor’s assets and the Bankruptcy Code.

City of Chattanooga, 2009 WL 137216, *5.

Likewise, in *Marlin Financial & Leasing Corp. v. Burch*, 441 S.W.3d 238 (Tenn. Ct. App. 2013), an equipment lessor sued to recover from a guarantor after the lessee filed bankruptcy in New Mexico. *Id.* at 238. In *Marlin*, the bankruptcy court entered an order approving the sale of certain leases, free and clear of prepetition claims. *Id.* at 239-40. The lessor sued the guarantor in the Hamilton County Chancery Court for monies due under the leases. The trial court found that it did not have subject-matter jurisdiction to consider the case because it was “a collateral attack on the bankruptcy court’s judgment.” *Id.* at 241. The *Marlin* Court cited the *City of Chattanooga* case as authority for its finding that a party cannot bring an action to enforce a lien that has been voided by a bankruptcy court’s order allowing the sale of an asset free and clear of liens. *Id.* at 243. This Court affirmed the trial court concluding that, where a bankruptcy court has entered an order, state courts do not have jurisdiction to consider collateral attacks on the bankruptcy court’s ruling. *Id.* at 245.

Here, after notice and hearing, the Bankruptcy Court approved the Trustee’s motion to sell Thomas’ expectancy interest in the Decedent’s estate, free and clear of any liens, specifically including the lien asserted by Appellant. No state court has jurisdiction to consider an attack on that judgment. *Marlin*, 441 S.W.3d 238; *City of Chattanooga*, 2009 WL 137216.

In view of the undisputed facts, and giving full force and effect to the federal courts’ orders, it is clear that neither Appellant nor Thomas has any claim to the interpleaded funds. Any claim made by Appellant or Thomas to those funds in the trial court constituted a collateral attack on the federal courts’ orders, which the trial court properly disallowed. Under the federal court rulings, there is no question that Cheairs is entitled to the interpleaded funds. Accordingly, the trial court’s finding that, “Nancy Cheairs has the sole right to the funds that are the subject of this Interpleader,” is correct. Accordingly, the trial court did not err in granting her motion for summary judgment and awarding her the interpleaded funds.

Any remaining issues or arguments are pretermitted as unnecessary to the

adjudication of this appeal.

V. Conclusion

For the foregoing reasons, the trial court's order is affirmed, and the case is remanded for such further proceedings as may be necessary and are consistent with this Opinion. Costs of the appeal are assessed one-half to the Appellant, Williams McDaniel, PLLC, and one-half to Appellee, Mark T. Thomas. Execution for costs may issue if necessary.

s/ Steven Maroney
STEVEN W. MARONEY, JUDGE