IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 52888

KRISTIE ANN BEAR,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	
	)	
JOSHUA BRENT BEAR, an individual,	)	**Boise, May 2026 Term**
	)	
Defendant-Respondent,	)	**Opinion Filed: October 28, 2026**
	)	
and	)	**Melanie Gagnepain, Clerk**
	)	
PREMIER MORTGAGE RESOURCES, LLC, Lender,	)	
	)	
Defendant.	)	
	)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Derrick O'Neill, District Judge.

The judgment of the district court is affirmed.

Ludwig, Shoufler, Miller, Johnson, LLP, Boise, for Appellant. Macee B. Dammeier argued.

Gravis Law, PLLC, Sun Valley, for Respondent. Michael D. Pogue argued.

BRODY, Chief Justice.

This partition action concerns real property located in Eagle, Idaho, owned by former spouses Joshua Brent Bear ("Joshua") and Kristie Ann Bear ("Kristie"). A Montana court dissolved the Bears' marriage and distributed the Eagle property as part of the property settlement agreement incorporated into the divorce decree, awarding it to Joshua and Kristie as tenants in common. Later, Kristie brought this partition action in Ada County district court to force a sale of the property. In this appeal, we are asked to decide whether Idaho's obligation to give full faith and credit to the Bears' Montana divorce decree precludes an Idaho court from judicially partitioning the Eagle property because of a provision in the divorce decree giving the Montana

court exclusive jurisdiction over the "enforcement, modification, or interpretation" of the Bears' property settlement agreement. We conclude that the Full Faith and Credit Clause of the United States Constitution obliges us to honor the decree's reservation of jurisdiction to the Montana court. We therefore affirm the district court's dismissal of Kristie's partition action, albeit on alternative grounds than those articulated by the district court.

I. FACTUAL AND PROCEDURAL BACKGROUND

Kristie and Joshua were married in 2007 in Coeur d'Alene, Idaho. The couple has three children, who at the time of the Bears' divorce, were thirteen, ten, and seven years of age. Kristie brought a Petition for Dissolution (divorce) in Montana state court in December 2021. She averred that the family had resided in Montana for more than ninety days prior to the date of filing the Petition. In the Petition, Kristie claimed that the marriage was "irretrievably broken." The Bears later mutually executed a Marital and Property Settlement Agreement ("Agreement") and a Parenting Plan, which Kristie submitted to the Montana court along with the Petition. The Bears agreed to the merger of the Agreement into the Montana court's decree of divorce:

> **DECREE OF DISSOLUTION**
>
> **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**
>
> . . . .
>
> 6. The issues of property and debt distribution and all other affairs of the marriage are determined pursuant to the [Agreement] filed herein.
>
> 7. The [Agreement] thereto filed herein is incorporated into this decree by reference. The parties are ordered to perform and comply with the terms and conditions contained in the [Agreement]. Terms of the [Agreement] are enforceable by all remedies available for enforcement of a judgment, including contempt, and are enforceable as contract terms.

Relevant to this case, the Agreement distributed the Bears' community real property as follows:

> 1. The following real property shall be immediately listed for sale and sold:
>
> 2815 Rustler Drive, Missoula, Montana
>
> 202 Shoreline Drive, #3, Polson, Montana
>
> Upon sale closing the net sale proceeds shall be divided equally between the parties after payment of . . . mortgage, any sales commission, and taxes.
>
> The following real property shall be immediately titled as tenant's [sic] in common, each with an undivided ½ interest, and shall be sold upon the mutual

> agreement of the parties with the net sale proceeds divided equally between the parties after payment of any sales commissions mortgage or other obligations and taxes:
>
> 724 Lone Brook, Eagle, Idaho

Furthermore, the Agreement contains an "enforcement" clause providing that the Montana court retains exclusive jurisdiction over subsequent actions arising from its terms:

> The parties hereby designate the Montana Fourth Judicial District Court, Missoula County, as the court having exclusive jurisdiction of the enforcement, modification, or interpretation of this [A]greement.

During the divorce proceedings, Kristie relocated from Montana to Idaho. One month after the decree issued, Joshua quitclaimed a one-half interest in the Eagle residence to her. That same day, he emailed Kristie inviting her to live separately with the children in the Eagle residence and stated that he intended to live there with the children if she declined his offer. Kristie appears not to have responded to the offer. Joshua later confirmed that he would move into the Eagle residence after the lessees vacated the property at the end of August 2022. Kristie, however, understood the Agreement to require Joshua to sell the Eagle residence once the lease expired.

Kristie later brought a personal injury action in district court in Ada County against Joshua for acts of violence that she alleged he committed during the marriage. Kristie also filed a petition in Ada County to modify the parenting plan adopted by the Montana court in the divorce decree. Kristie subsequently brought this partition action. In the complaint, she alleges that Joshua has excluded her from the Eagle residence, despite their tenancy in common, and asks the court to order the sale of the property and to facilitate the equitable distribution of the proceeds. She further requests that the court "award[] her credit against the net sale proceeds of the Eagle Property for 50% fair market rent that she has not received from [Joshua]."

Kristie moved for partial summary judgment, arguing that Joshua was unable to demonstrate the existence of an issue of material fact as to either her right to partition the property as a tenant in common or as to whether "the Eagle [residence] cannot be physically partitioned without great prejudice to the owners." In opposition, Joshua argued that the district court lacked jurisdiction to adjudicate the partition action by virtue of the Agreement's enforcement clause, which was adopted and incorporated into the Montana court's divorce decree. He further argued that the Agreement reflects Kristie's waiver of the right to seek partition of the Eagle residence because it provides that the residence must be sold on "mutual agreement of the parties." Thus, Joshua asked the district court to grant him summary judgment as the non-moving party.

The district court held a hearing to consider Kristie's motion for summary judgment. After hearing the parties' arguments, the district court denied Kristie's motion and ruled that it lacked subject matter jurisdiction to partition the Eagle residence. More precisely, the district court reasoned that the Montana court retained exclusive jurisdiction over the "enforcement, modification, or interpretation" of the Agreement, precluding an Idaho court from partitioning property subject to its terms:

> But I don't think that I get to decide those issues because, I agree, that this is a case where the Montana [c]ourt reserved exclusive jurisdiction. Were I to compel the sale of this property and then make a determination as to how the assets are divided depending upon who made what payments and who was entitled to credit for mortgage payments or use of the property, I think at that point I am clearly invading the purview of the original [c]ourt.
>
> [The Montana court] reserved, as I suggested, to itself enforcement, modification, or interpretation of the agreement. And I think that the issue before the [c]ourt is a request to interpret the language of that agreement, to the extent they can, one party to force the sale of the property in a particular period of time. I think that's consistent with the *Olsen v. Olsen* decision at 115 Idaho 25.

The district court granted summary judgment in favor of Joshua and dismissed the action without prejudice. Applying the same reasoning, the district court denied Kristie's motion for reconsideration. Kristie timely appealed.

II. STANDARD OF REVIEW

This Court reviews a lower court's decision on summary judgment under the same standard applied by the lower court. *Brewer v. Wash. RSA No. 8 Ltd. P'ship*, 145 Idaho 735, 738, 184 P.3d 860, 863 (2008) (citing *Kolln v. Saint Luke's Reg'l Med. Ctr.*, 130 Idaho 323, 327, 940 P.2d 1142, 1146 (1997)). To prevail on a summary judgment motion, the movant must "show[] that there is no genuine dispute as to any material fact" such that they are "entitled to judgment as a matter of law." I.R.C.P. 56(a). It follows that we review questions of law at the summary judgment stage freely, drawing our own conclusions from the evidence. *Callies v. O'Neal*, 147 Idaho 841, 846, 216 P.3d 130, 135 (2009) (quoting *Lettunich v. Key Bank Nat'l Ass'n*, 141 Idaho 362, 366, 109 P.3d 1104, 1108 (2005)). The application of the Full Faith and Credit Clause of the United States Constitution is one such question of law subject to free review. *See Markin v. Grohmann*, 153 Idaho 223, 227, 280 P.3d 726, 730 (2012).

III. ANALYSIS

A. The district court erred by concluding that it lacked subject matter jurisdiction over Kristie's partition action, but its error was harmless because the partition action was properly dismissed based on full faith and credit principles.

The district court determined that the enforcement clause of the Agreement deprived it of subject matter jurisdiction to partition the Eagle residence, given that the Agreement defines the terms of the Bears' possession of that property and reserves to the Montana court exclusive jurisdiction over any action to enforce, modify, or interpret those terms. Kristie insists this was error. She argues that subject matter jurisdiction "does not turn on" language in a foreign divorce decree; rather, "Idaho district courts unequivocally have subject matter jurisdiction over partition cases involving Idaho real estate." Relying on this Court's decision in *Olsen v. Olsen*, 115 Idaho 105, 765 P.2d 130 (1988), Joshua counters that the district court lacked jurisdiction to entertain a partition action because doing so would constitute an impermissible collateral attack on the Montana divorce decree and the Agreement it incorporated. We agree with Kristie that the Agreement does not deprive an Idaho court of subject matter jurisdiction over a partition action. Nevertheless, we affirm the district court's dismissal because the Agreement governs the parties' respective rights in the Eagle residence and giving the Agreement full faith and credit necessarily precludes the relief Kristie seeks through this partition action.

The Idaho Constitution vests the "judicial power" in the Supreme Court and the district courts, among others. Idaho Const. art. V, § 2. And it specifically gives Idaho's district courts "original jurisdiction in *all* cases, both at law and in equity." *Id.* art. V, § 20 (emphasis added). This language is broad; it reflects the fact that state courts, unlike our federal counterparts, are courts of *general* jurisdiction. *Allen v. Campbell*, 169 Idaho 613, 618, 499 P.3d 1103, 1108 (2021); *McCormick v. Smith*, 23 Idaho 487, 494, 130 P. 999, 1001 (1913). Consequently, there will be few occasions where an Idaho district court lacks subject matter jurisdiction; "the only limitation likely . . . to arise with any frequency is preemption by federal law." *Allen*, 169 Idaho at 618, 499 P.3d at 1108.

Idaho's district courts possess subject matter jurisdiction to adjudicate partition actions. To begin, a partition action is one sounding in equity, and it therefore falls within the jurisdiction conferred on district courts by Article V, section 20. *Nordgaarden v. Kiebert*, 171 Idaho 883, 889, 892, 527 P.3d 486, 492, 495 (2022) (citation omitted). Furthermore, partition is a cause of action expressly recognized by Idaho Code section 6-501. Thus, these "statutory and constitutional

provisions, when taken together, demonstrate that the district court, as a court of general jurisdiction, had the authority to hear this matter when filed because it was in fact dealing with the partition of real property under the authority granted by Idaho Code section 6-501." *Troupis v. Summer*, 148 Idaho 77, 80, 218 P.3d 1138, 1141 (2009).

Subject matter jurisdiction does not disappear even when other principles of law prevent the court from considering the case at hand. In *Olsen*, Mr. Olsen brought a partition action "seeking to obtain the value of his interest in" real property he owned with his ex-wife as joint tenants. 115 Idaho at 106, 765 P.2d at 131. He sought to partition the property despite language in the divorce decree awarding Ms. Olsen possession of the property until she remarried or "removed herself from the residence." *Id.* at 105–06, 765 P.2d at 130–31. The district court rejected Ms. Olsen's contention that the parties' rights in the property were res judicata as a result of the divorce decree and ordered her to buy out Mr. Olsen's interest in the property. *Id.* at 106, 765 P.2d at 131. This Court reversed, holding that the district court "had no jurisdiction to consider anew a sale of the residence" given that "[t]he divorce decree was a valid and final personal judgment and extinguished Mr. Olsen's claim for the sale of the residence, except as provided in the decree." *Id.* at 107, 765 P.2d at 132.

Unfortunately, *Olsen* confuses the term "jurisdiction" with the preclusive effect of a final judgment. *See id.* This confusion is not new; on several occasions we have wrestled with the "imprecise use of the term 'jurisdiction.'" *State v. Brown*, 170 Idaho 439, 443, 511 P.3d 859, 863 (2022); *see also State v. Moore*, 175 Idaho 906, 908, 572 P.3d 204, 206 (2025) (per curiam) ("This Court has repeatedly noted that phrases like 'the court lacks jurisdiction' have been used inconsistently, sometimes precisely and sometimes imprecisely, by both courts and parties.'" (citations omitted)). While *Olsen* held that the district court had no "jurisdiction" to reconsider the distribution of the Olsen's community property, 115 Idaho at 107, 765 P.2d at 132, the true meaning of its holding, as Justice Bistline notes in a concurring opinion, is that, when the divorce decree "became wholly final, . . . it was not subject to modification in that action or in any other action," *id.* at 108, 765 P.2d at 133 (Bistline, J., concurring). In other words, the district court was precluded from modifying the final divorce decree in a collateral partition action, even if, as a general matter, district courts have subject matter jurisdiction to partition real property.

Joshua's argument suffers from the same flaw. He insists that the Montana divorce decree deprived the district court of jurisdiction to entertain Kristie's partition action. The district court

erred in accepting this argument. Article V, section 20 of the Idaho Constitution and Idaho Code section 6-501 confer enduring subject matter jurisdiction on Idaho's district courts to adjudicate partition actions. That grant of jurisdiction, however, does not answer whether a court may grant relief in a particular case. Here, the relief Kristie seeks is precluded by a prior judgment on the merits between the same parties. *See D.A.R., Inc. v. Sheffer*, 134 Idaho 141, 144, 997 P.2d 602, 605 (2000).

The district court's error on this score is ultimately harmless because full faith and credit principles required it to dismiss Kristie's partition action. The divorce decree provides that the Agreement is "incorporated into th[e] decree by reference" and that the "issues of property and debt distribution . . . are [to be] determined pursuant to" that Agreement. The Agreement, in turn, designates the Montana court "as the court having exclusive jurisdiction of the enforcement, modification, or interpretation of this [A]greement." By virtue of its incorporation into the divorce decree—a final judgment of a sister state entitled to full faith and credit under the Constitution—we are required to honor the reservation of any dispute involving "enforcement, modification, or interpretation" to the Montana court.

Kristie contests this conclusion. She urges us to read the Agreement merely as a contract rather than as the terms of a sister-state judgment. Under her reading, the Agreement's "enforcement" provision operates as a forum-selection clause, which she contends is unenforceable in Idaho. And, in any event, Kristie argues that judicial partition of the Eagle residence has nothing to do with the Bears' divorce. Because she seeks "a partition of her separate property under general property laws that would govern any tenant-in-common dispute," she reasons that partition of the Eagle residence does not "involve the enforcement, modification, or interpretation of the [Agreement]." In other words, Kristie frames this partition action as an effort to enforce her rights as the possessor of real property in Idaho rather than any rights created by the Agreement.

Joshua counters that the Agreement is not a contract, but rather a final judgment. In his view, "[a]n Idaho partition order compelling sale" would run counter to the terms of the Montana divorce decree and would thus impermissibly "alter a judgment term." Like the district court, Joshua casts the problem as one of subject matter jurisdiction. In truth, however, the limitation he identifies arises from the Full Faith and Credit Clause, which requires Idaho courts to honor the terms of the Montana divorce decree. We thus begin by explaining why principles of full faith and

credit govern this dispute. We then turn to the language of the enforcement provision and conclude that Kristie's partition action would necessarily require an Idaho court to interpret, enforce, or modify its distribution of the Bears' marital real property—functions expressly reserved to the Montana court.

The Full Faith and Credit Clause of the United States Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." U.S. Const art. IV, § 1. As Chief Justice Marshall explained, the Clause guarantees "that the judgment of a state court should have the same credit, validity and effect, in every other court of the United States, which it had in the state where it was pronounced." *Hampton v. McConnel*, 16 U.S. (3 Wheat.) 234, 235 (1818). We have held that a sister-state judgment is entitled to full faith and credit in Idaho when (1) the rendering court properly exercised personal and subject-matter jurisdiction consistent with due process and its own state-law requirements; (2) the judgment is final; and (3) it was decided on the merits. *Andre v. Morrow*, 106 Idaho 455, 460, 680 P.2d 1355, 1360 (1984).

When these elements are satisfied, foreign state judgments are essentially given res judicata effect in Idaho courts, *see* Stewart E. Sterk, *The Muddy Boundaries Between Res Judicata and Full Faith and Credit*, 58 Wash. & Lee L. Rev. 47, 62 (2001), except as against allegations that the sister-state court lacked jurisdiction in rendering the judgment, *Andre*, 106 Idaho at 459, 680 P.2d at 1359. Although the Clause's command tends to limit "the status of the States as independent sovereigns" by requiring submission to another State's potentially "hostile policies," it simultaneously promotes "the practical operation of the federal system" by forbidding collateral attacks on foreign judgments among state courts. *Estin v. Estin*, 334 U.S. 541, 546 (1948); *see Fauntleroy v. Lum*, 210 U.S. 230, 238 (1908).

A foreign divorce decree is a variety of judgment entitled to full faith and credit in Idaho courts. *See Beesley v. Beesley*, 114 Idaho 536, 537, 758 P.2d 695, 696 (1988) (first citing U.S. Const. art. IV, § 1; then citing *Andre*, 106 Idaho 455, 680 P.2d 1355; and then citing *Mitchell v. Pincock*, 99 Idaho 56, 577 P.2d 343 (1978)). Here, the parties do not dispute that the Bears' divorce decree was a final judgment on the merits issued in the proper exercise of the Montana court's jurisdiction. But Kristie urges this Court to treat the Agreement the decree incorporates by reference as a mere contract. Specifically, she contends that the Agreement's enforcement clause is nothing more than a contractual forum-selection provision that should be given no effect by an

Idaho court pursuant to Idaho Code section 29-110(1). We are unpersuaded. By virtue of its incorporation into the Montana court's divorce decree, the Agreement's enforcement clause is a judgment term entitled to full faith and credit in Idaho. *See* Mont. Code Ann. § 40-4-201(4)(a); *In re Marriage of Lorge*, 675 P.2d 115, 117 (Mont. 1984). Idaho courts are therefore obliged to respect the Montana court's reservation of "exclusive jurisdiction of the enforcement, modification, or interpretation of th[e] [A]greement."

We conclude that Kristie's attempt to partition the Eagle residence effectively asked the Idaho district court to enforce, modify, or interpret the Agreement in contravention of its enforcement clause. The Bears offer competing interpretations of the Agreement's language addressing their ownership of the Eagle residence. On the one hand, Kristie reads the Agreement as establishing the Bears' ownership of the Eagle residence under the default rules of tenancies in common—principally, that the sale of the entire property requires the unanimous consent of the co-tenants. 20 Am. Jur. 2d *Cotenancy & Joint Ownership* § 96; *see Washburn-Wilson Seed Co. v. Alexie*, 54 Idaho 727, 730, 35 P.2d 990, 991 (1934). Yet those default rules, Kristie reasons, also bestow on her the right to vindicate her individual ownership interest in the property through a partition action brought in accordance with Idaho Code section 6-501. Under section 6-501, Kristie may unilaterally effectuate the sale of the entire property "if it appears that a partition cannot be made without great prejudice to the owners." I.C. § 6-501. On this view, then, the phrase "upon the mutual agreement of the parties" simply restates a baseline rule of property law but does not limit Kristie's right to partition the Eagle residence.

On the other hand, Joshua understands the Agreement itself—not Idaho's default rules—as the source of the parties' rights in the Eagle residence. In his view, the Agreement both created their tenancy in common and established the conditions under which the property could be sold. Thus, he interprets the phrase "upon the mutual agreement of the parties" not as a restatement of property law, but as a negotiated limitation on the parties' partition rights. Under that reading, mutual agreement is a condition precedent to any sale of the property, foreclosing this partition action in which Kristie explicitly asked the district court to force a sale of the Eagle residence over Joshua's objection.

Because the partition action cannot be adjudicated without resolving this dispute, an Idaho court would necessarily undertake the very interpretive task the Bears' divorce decree reserves to the Montana court. Moreover, undertaking that inquiry would risk giving the Montana judgment

less effect than it has in Montana—whether by misinterpreting its terms, by effectively reopening or modifying a property disposition incorporated into the divorce decree, or even by correctly interpreting the Agreement but doing so in a manner that amounts to enforcing its terms, a task the Agreement likewise reserves exclusively to the Montana court. Full faith and credit does not deprive Idaho courts of jurisdiction over partition actions; rather, it precludes courts from exercising that jurisdiction in a way that would contravene a sister-state judgment. In short, the Montana court must determine the parties' rights in the Eagle residence under the Agreement, and full faith and credit requires the Ada County district court to respect that allocation of authority when it ultimately partitions the property. Thus, we affirm the district court's dismissal of Kristie's partition action.

To summarize, the district court had jurisdiction over the partition action, but it may not exercise that jurisdiction in a manner that contradicts the terms of the Bears' Montana divorce decree. The Full Faith and Credit Clause requires Idaho courts to give the Bears' divorce decree—and the Agreement it incorporates—the preclusive effect of a final judgment. Because Kristie's partition action necessarily seeks to enforce, modify, or interpret the Agreement, she must pursue that relief in the Montana court before coming to an Idaho court to obtain an order partitioning the property in accordance with the decree.

B. We decline to award attorney fees to Joshua.

As the prevailing party, Joshua requests an award of attorney fees on appeal. We decline to make such an award. This Court may award reasonable attorney fees to the prevailing party if it finds that the case was "brought, pursued, or defended frivolously, unreasonably or without foundation." I.C. § 12-121. A case does not meet section 12-121's standard so long as it raises "fairly debatable issues." *Evans v. Wright*, 174 Idaho 330, 341, 554 P.3d 591, 602 (2024). However, when this Court determines that only specific issues raised on appeal are not fairly debatable—rather than the appeal as a whole—it may apportion fees to reflect only those unmeritorious claims. *Idaho Mil. Hist. Soc'y, Inc. v. Maslen*, 156 Idaho 624, 632, 329 P.3d 1072, 1080 (2014).

In the present case, the district court concluded that it lacked subject matter jurisdiction to hear Kristie's partition action. The district court erred in so concluding, and Kristie's appeal therefore raises a fairly debatable claim of error on that score, even if there are sound alternative grounds for dismissal. Moreover, much of this appeal turns on whether the Bears' property

settlement agreement is properly read as a foreign judgment or a contract. Because the Agreement reflects qualities of both a judgment and a contract, its proper classification is fairly debatable; both parties' arguments are serious, legally reasonable, and founded in the law and factual record of the case. We therefore decline to award attorney fees against Kristie.

IV. CONCLUSION

Based on the foregoing reasoning and authorities, we affirm the district court's order granting summary judgment to Joshua and dismissing this action without prejudice. We decline to make an award of attorney fees against Kristie. However, as the prevailing party, Joshua is entitled to costs as a matter of course pursuant to Idaho Appellate Rule 40(a).

Justices BEVAN, MOELLER, ZAHN and MEYER CONCUR.