

VERMONT SUPERIOR COURT
Orange Unit
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Chelsea VT 05038
802-685-4610
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 23-CV-02848

John Durkee, Executor of the Estate of H. Blaisdell, Jr. v. Trini Brassard, et al

ENTRY REGARDING MOTION

Title: Motion for Ex Parte Attachment (Motion: 8)
Filer: Richard J. Windish
Filed Date: July 24, 2024

Plaintiff seeks an ex parte writ of attachment as to real property located at 2305 Vermont Route 14 N in Randolph, Vermont now owned by “Jeffrey Brassard and Trini Brassard”. Although filed ex parte, Plaintiff served the order upon Defendant’s counsel, and he received same before the Court had entered it into its system. Defendant has opposed the motion. The court will nevertheless review the motion under the standards applicable for an ex parte motion without consideration of the Defendant’s opposition.

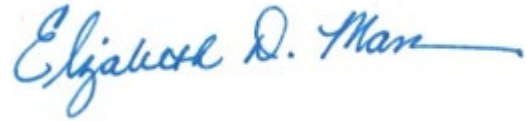
V.R.C.P. 4.1(b)(3) allows for the issuance of an attachment without prior notice and hearing if the motion as filed supports findings that (A) there is a reasonable likelihood that the plaintiff will recover judgment in an amount equal to or greater than the amount of the attachment over and above any liability insurance, bond or other security known or reasonably believed to be available to satisfy the judgment and (b) that either (1) there is a clear danger shown by specific facts that the defendant if notified in advance of the attachment will remove the state or conceal attachable property or other assets to satisfy the judgment; or (2) there is immediate danger shown by specific facts that the defendant will damage, destroy or sell to a bona fide purchaser, attachable property leaving insufficient attachable property or other assets to satisfy the judgment. V.R.C.P. 4.1(b)(3) further requires that counsel for the movant provide a certificate of the amount of any liability insurance, bond, or other security which the attorney knows or has reason to believe will be available to satisfy the judgment against the defendant in the action.

The court here cannot conclude on the current record that there is a reasonable likelihood of recovery for the Plaintiff. The court notes that Plaintiff’s motion to dismiss Defendant’s counterclaim has been denied and there are consequently completing demands in this action both of which will require significant factual findings before a final conclusion can be reached. Because the court cannot make this initial finding, it does not continue further with the 4.1(b)(3) analysis.

This matter will be set for a two-hour evidentiary hearing on Monday, August 12, 2024 at 9:00 a.m. Each side will be afforded one hour. If counsel does not believe that this will be sufficient time for the presentation of their respective evidence, they must immediately notify the court and provide

their best estimate of time required for this hearing. If no such notice is provided to the court by 08/01/2024, the issue will be closed, and the hearing time will be limited to two-hours divided evenly between the parties.

Electronically signed this July 29, 2024 at 10:51 PM pursuant to V.R.E.F. 9(d).

A handwritten signature in blue ink that reads "Elizabeth D. Mann" followed by a horizontal flourish.

Elizabeth D. Mann
Vermont Superior Court Judge