

INFOBRIDGE, LLC

v.

CHIMANI, INC.

Argued October 11, 2017  
Decided October 24, 2017

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, and  
HJELM, JJ.

## MEMORANDUM OF DECISION

Chimani, Inc. appeals from a judgment entered in the Superior Court (Cumberland County, *Mills, J.*) granting InfoBridge, LLC's motion for attachment and trustee process in a breach of contract action.<sup>1</sup> "Although prejudgment attachment orders are not final judgments, they are appealable pursuant to the collateral order exception to the final judgment rule." *Official Post Confirmation Comm. of Creditors Holding Unsecured Claims v. Markheim*, 2005 ME 81, ¶ 7, 877 A.2d 155.

In order to grant a motion for attachment and trustee process, the court must find that it is

more likely than not that the plaintiff will recover judgment, including interest and costs, in an amount equal to or greater than the aggregate sum of the attachment and any liability insurance,

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<sup>1</sup> In addition, Chimani also appealed the court's denial of its motion to compel arbitration. Before argument, Chimani withdrew this issue on appeal, and as a result, we do not address it here.

bond, or other security, and any property or credits attached by other writ of attachment or by trustee process shown by the defendant to be available to satisfy the judgment.

M.R. Civ. P. 4A(c); *see also* M.R. Civ. P. 4B(c). “Under this standard, a moving party must show a greater than 50% chance of prevailing.” *Richardson v. McConologue*, 672 A.2d 599, 600 (Me. 1996) (alteration omitted) (quotation marks omitted). “In making this determination, the court assesses the merits of the complaint and the weight and credibility of the supporting affidavits,” but the court is not required to “address complex legal issues or rectify factual disputes in a summary attachment hearing.” *Porrazzo v. Karofsky*, 1998 ME 182, ¶ 7, 714 A.2d 826.

“We review orders for attachment and trustee process for an abuse of discretion or clear error,” *Libby O’Brien Kingsley & Champion, LLC v. Blanchard*, 2015 ME 101, ¶ 5, 121 A.3d 109, and we “will not disturb the trial court’s findings based on the affidavits unless the affidavits contain no competent evidence to support the finding as to the plaintiff[s] likelihood of success.” *Wilson v. DelPapa*, 634 A.2d 1252, 1254 (Me. 1993).

Here, there was competent evidence in the record to support the finding as to InfoBridge’s likelihood of success, and the court did not abuse its discretion in finding, based on the evidence presented in the affidavits and the complaint, that it was more likely than not that InfoBridge would recover \$149,075.77.

The entry is:

Judgment affirmed.

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John F. Lambert, Jr., Esq., and Leah M. Baldacci, Esq. (orally), Lambert Coffin, Portland, for appellant Chimani, Inc.

Timothy J. Bryant, Esq. (orally), and Jonathan G. Mermin, Esq., Preti Flaherty Beliveau & Pachios, LLP, Portland, for appellee Infobridge, LLC