

PINE STATE TRADING CO.

v.

BREWER FEDERAL CREDIT UNION

Submitted on Briefs November 4, 2008
Decided December 2, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER,
MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

The Brewer Federal Credit Union appeals from judgments entered in the Superior Court (Kennebec County, *Studstrup, J.* and *Mills, J.*) adjudging it to be trustee of defendant Nadeau Bragdon, Inc.'s assets in the amount of \$38,564.05 plus interest and costs.

Contrary to the Credit Union's contention, neither the rule, M.R. Civ. P. 4B(e), nor the statute, 14 M.R.S. §§ 2601-3051 (2007), require a further adjudication of the Credit Union as trustee by a separate judgment prior to that against the principal. Further, though some of the funds initially disclosed by the Credit Union were uncollected checks, the principal defendant had a right to access those funds immediately and therefore the funds were not due to the principal on any contingency. *See* 14 M.R.S. § 2602. In addition, the Credit Union's right to have the checks honored was not a contingent right.

Finally, the court did not err in ascertaining that the Credit Union should be held liable as of September 21, the day it responded, as opposed to September 20, the day it was served, as the amount of time in which the Credit Union responded was reasonable under these circumstances. *See* 14 M.R.S. § 2603.

The entry is:

Judgment affirmed.

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