



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1459

S.P. 577

In Senate, March 30, 2023

An Act to Reduce Abuse of the Civil Ex Parte Attachment and Trustee Processes

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LIBBY of Cumberland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 14 MRSA §2911** is enacted to read:

3 **§2911. Effect of modification or dissolution of ex parte order**

4 **1. Costs and attorney's fees.** If the court modifies or dissolves an ex parte order of
5 attachment on trustee process in response to a motion by any person having an interest in
6 goods or credits that have been attached, the court shall order the plaintiff to pay to the
7 moving party:

8 A. The costs and reasonable attorney's fees incurred by the moving party for the
9 motion; and

10 B. Interest, at a rate equivalent to the rate of post-judgment interest under section
11 1602-C, subsection 1, paragraph B, on the value of the amount of cash, if any, that was
12 attached on trustee process pursuant to the ex parte order but that is no longer subject
13 to attachment due to the modification or dissolution of that order. Interest under this
14 paragraph accrues from and after the date of entry of the ex parte order of attachment
15 on trustee process until the date that the order under this paragraph is fully satisfied.
16 On petition of the plaintiff and on a showing of good cause, the court may order that
17 interest awarded under this paragraph be fully or partially waived.

18 **2. Joint and several liability.** If 2 or more plaintiffs joined in the filing of a motion
19 for an ex parte order of attachment on trustee process, those plaintiffs are jointly and
20 severally liable for any award of costs, reasonable attorney's fees and interest under
21 subsection 1.

22 **3. Prima facie evidence.** An order modifying or dissolving an ex parte order of
23 attachment on trustee process in response to a motion by any person having an interest in
24 goods or credits that have been attached is prima facie evidence of abuse of process by the
25 plaintiff or plaintiffs that filed the motion for the ex parte order of attachment on trustee
26 process.

27 **4. Trustee process on counterclaim, cross-claim or 3rd-party complaint.** If an ex
28 parte order for attachment on trustee process was obtained by a party bringing a
29 counterclaim, a cross-claim or a 3rd-party complaint, the word "plaintiff" as used in this
30 section refers to the party to the action that obtained the ex parte order for attachment on
31 trustee process and the word "defendant" as used in this section refers to the party to the
32 action whose property was attached.

33 **Sec. 2. 14 MRSA §4103** is enacted to read:

34 **§4103. Effect of modification or dissolution of ex parte order**

35 **1. Costs and attorney's fees.** If the court modifies or dissolves an ex parte order of
36 attachment in response to a motion by any person having an interest in property that has
37 been attached, the court shall order the plaintiff to pay to the moving party:

38 A. The costs and reasonable attorney's fees incurred by the moving party for the
39 motion; and

40 B. Interest, at a rate equivalent to the rate of post-judgment interest under section
41 1602-C, subsection 1, paragraph B, on the value of the amount of cash, if any, that was
42 attached pursuant to the ex parte order but that is no longer subject to attachment due

