

**IN THE SUPREME JUDICIAL COURT OF MAINE
SITTING AS THE LAW COURT**

JASON SMITH, *et al.*

v.

LORELEI HILLIKER, *et al.*

On Appeal from the Maine Superior Court, Androscoggin County,
Docket No. ANDSC-CIV-2025-00081
(Justice Jennifer A. Archer)

BRIEF OF APPELLANT JASON SMITH

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INTRODUCTION

Appellant Jason Smith appeals from the Superior Court's confirmation of an Arbitration Award purportedly involuntarily dissociating him from Riverbend Investment Properties, LLC ("Riverbend"). While the Arbitrator abided by the limitations on his authority preventing him from involuntarily dissolving Riverbend, he did not so abide by the contractual and statutory limitations on his authority preventing him from involuntarily dissociating Smith, necessitating this appeal.

STATEMENT OF THE FACTS

Smith and Appellee Lorelei Hilliker are co-Members and co-Managers of Riverbend, a Maine limited liability company. (A. 83-84). Each owns 50% of Riverbend. (A. 83). Smith and Hilliker executed Riverbend's LLC Agreement and other organizational documents on October 16, 2020. (A. 64-104). Riverbend's sole asset is real property at 5 Canal Street in Lisbon, Maine. (A. 153).

Smith and Hilliker each operate a medical marijuana business out of 5 Canal Street. Smith is the sole owner of Lisbon Cannabis Company, Inc., a Maine corporation that, as of the time of the filing of this Brief,

operates as a medical marijuana retail caregiver out of the first floor of 5 Canal Street. And Hilliker is the sole owner of Creative Biomass Derivatives, LLC, a Maine limited liability company that operates under the assumed name 207 Edibles as a medical marijuana manufacturing establishment out of the second floor of 5 Canal Street.

Disputes between Smith and Hilliker ensued from a deterioration of their personal and business relationships. On March 28, 2025, Hilliker filed a demand for arbitration with the American Arbitration Association. (A. 105-106). The demand asserted, *inter alia*, “[a] member dispute has arisen between the members such that the company cannot operate. Claimant seeks dissolution of the company and liquidation of its assets including its real estate.” (A. 105). Hilliker subsequently amended her demand on April 15, 2025 to seek “as an alternative remedy the [involuntary] dissociation of [Smith] from [Riverbend] pursuant to Article 9 of the company’s operating agreement.” (A. 107). She also claimed damages for Smith’s alleged “violation of the operating agreement.” (A. 107).

On June 3, 2025, Smith (individually and derivatively on behalf of Riverbend) and Lisbon Cannabis Company filed, in Androscoggin County

Superior Court, a five-Count Verified Derivative Complaint and Application for Preliminary Injunction against Hilliker, and against Riverbend as a nominal Defendant.¹ (A. 16-32). Count I, asserted by Smith individually and by Lisbon Cannabis Company, sought a preliminary injunction restraining and enjoining Hilliker from, *inter alia*, continuing to act against Riverbend, its Members, and Lisbon Cannabis Company. (A. 26-27). Counts II and III, asserted by Smith derivatively, alleged claims for breaches of fiduciary duty by and for corporate waste by Hilliker. (A. 27-28). Count IV, asserted by Smith individually and by Lisbon Cannabis Company, alleged a claim for equitable estoppel. (A. 28). And Count V, asserted by Smith derivatively, sought a declaratory judgment. (A. 28-32).

In response to the Complaint, Hilliker filed, on June 5, 2025, a Motion To Stay and To Compel Arbitration, which the Superior Court granted in part and denied in part on September 15, 2025. (A. 108-113, 123-129).

¹ The Town of Lisbon was initially named a Party-in-Interest. (A. 16). The Town was dismissed on September 23, 2025. (A. 10 at n.2).

The Riverbend LLC Agreement provides for arbitration of “Member Disputes.” The Arbitration Provision provides:

If a deadlock or dispute arises between or among the Members relating to this Agreement or the Company’s Business or affairs (each such deadlock or dispute, a ‘**Member Dispute**’), then the Members shall use all reasonable efforts to resolve the Member Dispute on an amicable basis. If the Member Dispute is not resolved on such basis within sixty (60) days after a Member first brings the Member Dispute to the attention of the other Members, then any Member may serve upon such other Members a written demand for arbitration of the Member Dispute. The Member Dispute will thereafter be settled by arbitration before a single arbitrator in accordance with the Expedited Procedures under the Commercial Arbitration Rules of the American Arbitration Association, or such other rules and procedures upon the vote of the Members. Any such arbitration shall occur in Portland, Maine, or such other location upon the vote of the Members. Any award or decision obtained from any such arbitration proceeding will be final and binding upon the parties involved in the Member Dispute, and judgment upon any award thus obtained may be entered in any court having jurisdiction thereof. To the fullest extent permitted by law, no action at law or in equity based upon any claim arising out of or relating to this Agreement will be instituted in any court by any Member except (a) an action to compel arbitration pursuant to this Section, or (b) an action to enforce an award obtained in an arbitration proceeding in accordance with this Section.

(A. 68-69 at § 2.2).

The Superior Court found that Smith's claims against Hilliker were a dispute between Members of Riverbend related to either the Riverbend LLC Agreement or Riverbend's business, or both, and that thus they fell within the scope of the arbitration provision, and ordered them to be arbitrated. (A. 125-128). Lisbon Cannabis Company's claims were not subject to arbitration of Member Disputes because Lisbon Cannabis Company is not a Member of Riverbend, but the Court stayed those claims pending the arbitration of Smith's claims. (A. 125-128).

Thereafter, Smith asserted in the arbitration proceedings affirmative defenses to Hilliker's claims as well as counterclaims against Hilliker. (A. 130-147). A two-day arbitration was held on November 18 and 19, 2025. (A. 153).

During the arbitration proceedings, Smith objected to any authority or jurisdiction of the Arbitrator to involuntarily dissociate or expel him from Riverbend. Section 9.1 of the Riverbend LLC Agreement defines, limits, and tethers "Events of Dissociation" to those specified in Section 1582 of the Maine Limited Liability Company Act, 31 M.R.S. §§ 1501 *et seq.* ("the Maine LLC Act"):

9.1 Events and Effect of Dissociation. Upon the occurrence of any of the events specified in Section 1582 of the Act (including, without limitation, voluntary dissociation, death, adjudication of incompetency, bankruptcy, insolvency, or dissolution) (each of such events, an ‘**Event of Dissociation**’), the dissociated Member shall be deemed a Transferring Member and the rights and obligations of the withdrawing Member shall be as specified in Article 8. . . .

(A. 77).

Section 1582, in turn, with exceptions not pertinent to this appeal,² limits involuntary dissociation or expulsion of an LLC member to that ordered by a Court (“judicial order”):

A person is dissociated as a member from a limited liability company when:

. . . .

5. Expulsion by judicial order. On application by the limited liability company, the person is expelled as a member by judicial order because the person:

A. Has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the limited liability company’s activities;

² Inapplicable exceptions include, but are not limited to, a person willingly dissociating as a member, death, and bankruptcy. See, e.g., 31 M.R.S. § 1582(1), (6), and (7).

B. Has willfully and persistently committed, or is willfully and persistently committing, a material breach of the limited liability company agreement or the person's duty or obligation under this chapter or other applicable law; or

C. Has engaged, or is engaging, in conduct relating to the limited liability company's activities that makes it not reasonably practicable to carry on the activities with the person as a member[.]

31 M.R.S. § 1582(5).

Therefore, because the Riverbend LLC Agreement defines, limits, and tethers dissociating events to those set forth in Section 1582 and because Section 1582 limits involuntary dissociation to that by judicial order, the Agreement and Statute combine to limit involuntary dissociation of a Member of Riverbend to that by judicial order.

Smith made this very argument to the Arbitrator, pointing out, *inter alia*, that while the Arbitrator had authority to address any voluntary dissociation of Hilliker from Riverbend, the Arbitrator did not have authority or jurisdiction to involuntarily expel or dissociate him from Riverbend. For example, Smith argued:

[E]xpulsion is only available by the terms of a prior agreement, i.e., the Riverbend Agreement, unanimous consent, or *judicial order*. In other words, although Hilliker argues for the involuntary dissociation or expulsion of Smith, i.e.

expulsion by judicial order, like the Arbitrator's lack of subject matter authority/jurisdiction to award Riverbend's dissolution, the Arbitrator also lacks the subject matter authority/jurisdiction to expel Smith as a member of Riverbend. . . . Contrawise, there appears to be implicit unanimous consent to Claimant Hilliker's voluntary dissociation.

(A. 151 at n.14). (emphasis in original).³

The Arbitrator disregarded the unambiguous contractual and statutory limits on his authority. In a written Award dated December 17, 2025, the Arbitrator purported to involuntarily dissociate Smith from Riverbend pursuant to 31 M.R.S. § 1582(5) (A. 154), notwithstanding that the Statute and the Riverbend LLC Agreement combine to limit involuntary dissociation to that by judicial order.

On December 19, 2025, Hilliker filed with the Superior Court an application for confirmation of the Arbitration Award and for entry of judgment on Smith's individual and derivative claims. (A. 56-59). On January 9, 2026, Smith filed an application to vacate, correct, and/or

³ This quotation is from Smith's Closing Brief/Proposed Order submitted to the Arbitrator before the Arbitrator issued the written Award at issue in this appeal. (A. 148-152).

modify the Arbitration Award and an objection to Hilliker's application for confirmation. (A. 60-63).

In his briefing to the Superior Court, Smith again argued that the Arbitrator lacked any authority or jurisdiction to involuntarily dissociate him from Riverbend. (A. 61, 160-163). Hilliker did not address this argument at all in her briefing to the Court. (A. 156-159).

On February 10, 2026, without holding a hearing or argument, the Superior Court issued an Order (i) confirming the Arbitration Award in its entirety, (ii) dismissing Smith's then-pending individual and derivative claims, and (iii) lifting the stay on Lisbon Cannabis Company's claims. (A. 9-15).

In rejecting Smith's arguments about the lack of the Arbitrator's authority or jurisdiction to involuntarily dissociate or expel him from Riverbend, the Court noted "that Smith, too, included 'Dissociation and Waste' as a counterclaim," seemingly to imply that Smith had assented to the Arbitrator's authority or jurisdiction to order an involuntary dissociation. (A. 14 at n.4). That is incorrect. As noted above, Smith expressly argued to the Arbitrator the distinctions rooted in the Riverbend LLC Agreement and the Maine LLC Act between, on one

hand, the Arbitrator’s authority to address any voluntary dissociation of Hilliker from Riverbend, and on the other, the Arbitrator’s lack of authority or jurisdiction to involuntarily dissociate or expel him. (A. 151 at n.14).

Smith timely appealed the confirmation of the Arbitration Award. (A. 7). All further proceedings in the Superior Court have been stayed pending this appeal.

STATEMENT OF THE ISSUES

The sole issue on appeal is whether the Arbitrator had authority to involuntarily dissociate Smith from Riverbend.

JURISDICTIONAL STATEMENT

This Court has jurisdiction over this appeal pursuant to 14 M.R.S. § 5945(1)(C), which allows for an immediate appeal of “[a]n order confirming or denying confirmation of an [arbitration] award.”

ARGUMENT

I. The Arbitrator Had No Authority To Involuntarily Dissociate Smith From Riverbend.

“Arbitration appeals are governed by the Maine Uniform Arbitration Act, 14 M.R.S. § 5945(1).” Stanley v. Liberty, 2015 ME 21, ¶ 23, 111 A.3d 663. This Court’s review of the trial “court’s confirmation

of an arbitration award is confined to errors of law only, and the award will be upheld unless the court was compelled to vacate it.” Id. “In reviewing an arbitrator’s award directly, the primary issue is whether the award was within the arbitrator’s authority.” Id. “When an arbitrator stays within the scope of [his or her] authority, the award will not be vacated even when there is an error of law or fact.”⁴ Id. (internal quotation marks and citation omitted). “The burden of demonstrating that an arbitrator exceeded his or her authority lies with the party seeking to vacate the award.” Id.

Here, the Superior Court erred in confirming and not vacating the Arbitrator’s Award because, *inter alia*, the Arbitrator had no authority to involuntarily dissociate Smith from Riverbend. See, e.g., 14 M.R.S. § 5938(1)(C) (“**1. Vacating award.** Upon application of a party, the court

⁴ If, for example, a question of contract construction is *within* the Arbitrator’s authority, then the Arbitrator’s construction of the agreement containing the arbitration provision was bargained for by the Parties and the inquiry includes whether any rational construction of the agreement could support the award. E.g., Express Natural Gas, LLC v. Cate Street Capital, Inc., 2016 ME 111, ¶¶ 9, 12, 144 A.3d 583, but the initial threshold question of law remains whether a question or dispute is, in the first instance, within the Arbitrator’s authority to resolve.

shall vacate an award where: . . . C. The arbitrators exceeded their powers[.]”).

A. Only A Court Can Order An Involuntary Dissociation From Riverbend.

Because Section 9.1 of the Riverbend LLC Agreement defines, limits, and tethers dissociating events to those set forth in Section 1582 of the Maine LLC Act and because Section 1582 limits involuntary dissociation to that by judicial order, (i) the Agreement and Statute combine to limit involuntary dissociation of a Member of Riverbend to that by judicial order, and (ii) the Arbitrator, accordingly, lacked authority to involuntarily expel or dissociate Smith from Riverbend.

Analogously, the Riverbend LLC Agreement limits dissolution of Riverbend to the following events: the unanimous vote of the Members or the entry of a decree of judicial dissolution. (A. 73 at § 7.1). With respect to dissolution, the Arbitrator abided by the limitations prescribed by the Agreement and ruled that he did not have the authority to order a dissolution of Riverbend: “I am not persuaded that under Maine law and the language of the Riverbend Agreement that Riverbend may be dissolved in arbitration—although this is a remedy which might be evaluated by the Superior Court.” (A. 154).

But incongruously, the Arbitrator refused to abide by the similar contractual and statutory provisions combining to limit involuntary dissociation of a Member from Riverbend to that “by judicial order.” That was legal error.

Smith acknowledges that the scope of the Arbitration Provision is seemingly broad, in that it purports to apply “[i]f a deadlock or dispute arises between or among the Members relating to [the Riverbend LLC] Agreement or the Company’s Business or affairs” (A. 68), and, “[t]o the fullest extent permitted by law,” to preclude from instituting in any Court any “action at law or in equity based upon any claim arising out of or relating to” the LLC Agreement (A. 69).

That being said, general rules of contract interpretation apply to interpretation of arbitration provisions, Reg’l Sch. Unit No. 5 v. Coastal Educ. Ass’n, 2015 ME 98, ¶ 15, 121 A.3d 98, including the principle that every clause of a contract must be given meaning if possible, Orthopedic Physical Therapy Ctr., P.A. v. Sports Therapy Ctrs., Ltd., 621 A.2d 402, 403 (Me. 1993).

Here, just like the Arbitrator did not have authority to order a dissolution of Riverbend, the Arbitrator did not have authority to order

an involuntary dissociation of Smith from Riverbend. To find otherwise would be to impermissibly read out of the Riverbend LLC Agreement Section 9.1, which defines, limits, and tethers dissociating events to those set forth in Section 1582 and thereby combines with Section 1582 to limit involuntary dissociation to that by judicial order.

Therefore, because there was no agreement to submit the question of involuntary dissociation of a Member from Riverbend to the Arbitrator and because the Arbitrator had no authority to involuntarily dissociate Smith from Riverbend, the Superior Court erred as a matter of law in confirming the Arbitrator's unauthorized involuntary dissociation of Smith.

B. Only Riverbend Can Bring A Claim For Involuntary Dissociation.

Furthermore, involuntary dissociation can be ordered only on application by the LLC (and not on application by a Member, such as Hilliker). Again, Section 1582(5) of the Maine LLC Act provides, **“5. Expulsion by judicial order.** On application by the limited liability company, the person is expelled as a member by judicial order” 31 M.R.S. § 1582(5).

Thus, a claim or action for involuntary dissociation belongs to Riverbend, and such a claim or action is *not* a Member Dispute subject to arbitration—because the dispute is between Riverbend and the Member sought to be dissociated, and not between Members.⁵

With respect to this argument, Smith acknowledges that there is a split in Maine Superior Court cases as to whether a member of a closely held LLC⁶ can bring a direct claim individually for involuntary dissociation of another member. In Marston v. Nappi, the Superior Court answered “no” to that question, noting that the plain text of Section 1582(5) “supports Marston’s assertion that any application for court ordered expulsion must be made by [the LLC].” 2022 WL 17403419, at *6 (Me. Super. Ct. June 29, 2022).⁷

⁵ The Arbitration Provision in the Riverbend LLC Agreement is limited to Disputes between Members. (A. 68 at § 2.2).

⁶ Closely held LLCs are defined, for the purposes of 31 M.R.S. § 1637, as those with fewer than 35 members and no transferable interests listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national securities association. 31 M.R.S. § 1637(1).

⁷ See id. at *3 noting that the case involved a closely held LLC. The dissociation claim was allowed to go forward in that case only because the LLC was joined to the counterclaims seeking dissociation, id. at *6, which was not done in the instant Matter.

Two other Superior Court cases, though, have ruled that in certain circumstances a member of a closely held LLC can bring their own direct claim individually for involuntary dissociation: In re Tripp v. Hidden Lake Village, LLC, 2025 WL 2880408, at **2-4 (Me. B.C.D. Aug. 22, 2025), and Cianchette v. Cianchette, 2019 WL 8589134, at *6 (Me. B.C.D. Dec. 16, 2019).

Those two Orders rely on Section 1637(3)(A) of the Maine LLC Act, which provides that for closely held LLCs a derivative claim (a claim that is owned by the LLC and brought by a member on behalf of the LLC) may be brought “directly” in the member’s individual capacity if justice so requires.⁸ They reason that Section 1637 authorizes a direct action or claim by a member of the LLC for what would otherwise be the LLC’s action or claim for involuntary dissociation.

Respectfully, that rationale is incorrect, at least with respect to this matter. Section 1582(5), on its face, expressly and unambiguously limits actions or claims for involuntary dissociation to those brought by the

⁸ 31 M.R.S. § 1637(3)(A) (“**3. Exception to limitation on derivative actions.** If justice requires: A. A derivative action commenced by a member of a closely held limited liability company may be treated by a court as a direct action brought by the member for the member’s own benefit[.]”).

LLC, and this Court should give effect to that limitation, especially where the Riverbend LLC Agreement expressly and unambiguously limits events of dissociation to those set forth in Section 1582.

CONCLUSION

In sum, for all the reasons set forth herein, the Arbitrator did not have authority to involuntarily dissociate Smith from Riverbend, and the Superior Court erred as a matter of law in confirming that portion of the Arbitrator's Award.

Dated at Portland, Maine this 23rd day of June 2026.

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