

**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)

REPLY BRIEF OF APPELLANT JASON SMITH

Brett R. Leland (Bar No. 9828)
VERRILL DANA LLP
One Portland Square
Portland, ME 04101-4054
Tel: (207) 774-4000
bleland@verrill-law.com
*Counsel for Appellant Jason
Smith*

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INTRODUCTION

As set forth below and in Smith’s Blue Brief, the Superior Court erred in confirming the Arbitrator’s Award of dissociation because the Arbitrator lacked the authority to order Smith’s involuntary dissociation from Riverbend.¹

The Riverbend LLC Agreement unambiguously tethers dissociation to Section 1582 of the Maine LLC Act, which reserves the authority to order an involuntary dissociation to the courts upon application by the LLC itself—not to an arbitrator, and not upon a claim by an individual member. Hilliker’s arguments to the contrary conflate the substantive grounds for involuntary dissociation with the threshold question of who has the authority to order it, and no amount of reliance on the breadth of the Arbitration Provision or principles of contractual freedom can override the Parties’ express decision to reserve this determination to the judicial process.

¹ Defined terms have the meaning ascribed in Appellant’s Blue Brief, dated June 23, 2026.

ARGUMENT

A. The “Rational Construction” Standard Does Not Save an Arbitrator’s Usurpation of Authority.

Hilliker concedes that an arbitrator’s award is properly vacated where the arbitrator exceeded his or her powers. Appellee’s Br. at 11-12. An arbitrator can exceed his or her powers in different ways: for example, when an arbitrator’s decision rests on interpretation of a contract under which the parties’ dispute arose, the arbitrator can make a finding that “no rational construction of the agreement could support,” Stanley v. Liberty, 2015 ME 21, ¶ 26, 111 A.3d 663; or, alternatively, an arbitrator can reach an issue that the parties did not agree to submit to arbitration in the first place. See, e.g. Xpress Natural Gas, LLC v. Cate St. Cap., Inc., 2016 ME 111, ¶ 13, 144 A.3d 583 (“[W]e have held that an arbitrator exceeded the powers conferred on the arbitrator when . . . the arbitrator determined a matter that was not subject to arbitration . . .”).

Hilliker focuses solely on the first basis for vacatur but ignores the second entirely. That omission is fatal to her position. The Riverbend LLC Agreement did not authorize the Arbitrator to order involuntary dissociation because Section 9.1 of the Agreement unequivocally limits dissociation to the occurrence of events set forth in Section 1582 of the

Maine LLC Act. (A. 77). Section 1582, in turn, permits involuntary dissociation only by judicial order, and then only if the court determines that one of the specified statutory grounds exists. See 31 M.R.S. § 1582(5).² By ordering Smith's involuntary dissociation from Riverbend, the Arbitrator usurped authority that the Parties contractually entrusted to the courts.

Hilliker attempts to elide this distinction by conflating the grounds for involuntary dissociation under Section 1582(5) with the authority to order it. She notes that Section 1582(5) permits involuntary dissociation where a member has engaged in wrongful conduct, breached the relevant LLC agreement or another duty, or engages in conduct making it impracticable to carry on the LLC's activities. See Appellee's Br. at 15. But the question here is not whether Smith's conduct merits involuntary dissociation under Section 1582(5), although that is hotly disputed. The question is whether the Arbitrator had the authority to decide the issue

² There has never been any argument or evidence that any of the factors in Section 1582(4) supporting dissociation or expulsion upon unanimous consent of the other members have been established, and the Arbitrator did not base his involuntary dissociation of Smith on Section 1582(4). (A. 154).

at all. As Section 1582(5) and Section 9.1 of the Riverbend LLC Agreement make clear, that authority is reserved for the courts.

Nor does the general breadth of the Arbitration Provision override the Parties' decision to reserve involuntary dissociation determinations to the courts. Like any contract, the Riverbend LLC Agreement must be interpreted as a whole, giving "force and effect to all of its provisions and not in a way that renders any of its provisions meaningless." Alrig USA Acquisitions LLC v. MBD Realty LLC, 2025 ME 11, ¶ 13, 331 A.3d 372 (quoting Am. Prot. Ins. Co. v. Acadia Ins. Co., 2003 ME 6, ¶ 11, 814 A.2d 989). Reading the Arbitration Provision to empower an arbitrator to order involuntary dissociation would render Section 9.1's incorporation of Section 1582 meaningless.

B. The Arbitrator's Award Must Also Be Vacated Under the "Rational Construction" Standard.

Even if the "rational construction" standard Hilliker relies upon were to apply, the Arbitrator's Award fares no better. As Hilliker notes, that standard requires vacatur if the arbitrator's interpretation is not "rationally derived" from the Parties' agreement. Appellee's Br. at 12 (quoting AFSCME, Council 93 v. City of Portland, 675 A.2d 100, 102 (Me. 1996)). Such is the case here.

Again, the Riverbend LLC Agreement unambiguously provides that a member of the LLC may be disassociated only “upon occurrence of any of the events specified in Section 1582 of the [LLC] Act,” and Section 1582(5) unambiguously limits involuntary dissociation to that by judicial order.

Hilliker attempts to create ambiguity by referencing the Riverbend LLC Agreement’s dissolution provision, which provides that dissolution can occur only upon a unanimous vote of the members or entry of a judicial decree. Appellee’s Br. at 13-16 (citing Section 7.1 of the Riverbend LLC Agreement (A. 73)). Hilliker suggests that because Section 9.1 does not reference the necessity of a judicial order in the text of the Section, the parties did not intend to require a judicial order for involuntary dissociation. That is not so.

The dissolution provisions of the LLC Act (31 M.R.S. §§ 1591-1595) provide for dissolution for various reasons that do not require a court order, for example where the LLC ceases to have any members for 90 days. See 31 M.R.S. § 1595(1)(C). Accordingly, to ensure that dissolution absent unanimous consent required a court order, the Riverbend LLC Agreement needed to expressly provide as much. That is not the case with

respect to involuntary dissociation because the requirement to obtain a court order prior to expelling a member is already built into Section 1582(5), to which the Riverbend LLC Agreement is explicitly tethered.

C. The Award Must Be Vacated for the Additional Reason That Hilliker, Not Riverbend, Sought To Dissociate Smith.

As set forth in Smith’s Blue Brief, the Arbitrator’s Award must also be vacated because Section 1582(5) provides for involuntary dissociation only upon a judicial order “on application by the limited liability company.” 31 M.R.S. § 1582(5) (emphasis added). It was Hilliker – not Riverbend – who commenced the arbitration and sought Smith’s dissociation. For this independent reason, the Arbitrator lacked authority to order involuntary dissociation. Moreover, because a claim for involuntary dissociation can be brought only by the LLC, it does not constitute a dispute “between or among members,” which is the only type of dispute subject to arbitration under the Riverbend LLC Agreement. (A. 68.).

Hilliker responds by arguing that the Riverbend LLC Agreement – not Section 1582 – determines which disputes are arbitrable, citing the well-established proposition that the LLC Act’s purpose is to “give

maximum effect to the principles of freedom of contract.” Appellee’s Br. at 17 (citing Cianchette v. Cianchette, 2019 ME 87, ¶ 34, 209 A.3d 745).

But that is precisely the point. The Riverbend LLC Agreement, by tethering dissociation to Section 1582, limited dissociation to the circumstances outlined in that statute. Because Section 1582(5) permits involuntary dissociation only upon application by the LLC, the Riverbend LLC Agreement must be read to be so limited as well.

Finally, Hilliker misses the point in attempting to distinguish Marston v. Nappi, No. CV-21-0453, 2022 WL 17403419 (Me. Super. Ct. June 29, 2022), on the grounds that it does not involve an arbitration provision. Marston confirms that Section 1582(5) permits involuntary dissociation only upon application by the LLC. Because the Riverbend LLC Agreement tethers permissible dissociation to Section 1582, the Riverbend LLC Agreement must also be read to permit involuntary dissociation only upon application by the LLC.

CONCLUSION

In sum, for all the reasons set forth herein and in Appellant's Blue Brief, 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. Smith requests that the involuntary dissociation of the Arbitrator's Award be vacated and the case remanded to the Superior Court for further proceedings.

Dated at Portland, Maine this 12th day of August 2026.

/s/ Brett R. Leland

Brett R. Leland, Bar No. 9828

VERRILL DANA LLP

One Portland Square

Portland, Maine 04101-4054

(207) 774-4000

bleland@verrill-law.com

Counsel for Appellant Jason Smith