

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

BATH IRON WORKS)	
CORPORATION,)	
PLAINTIFF)	
)	
v.)	Civil No. 99-365-P-H
)	
TUFTS HEALTH PLAN OF NEW)	
ENGLAND, INC., ET AL.,)	
DEFENDANTS)	

**ORDER ON MOTION TO DISSOLVE *EX PARTE* ATTACHMENT
AND *EX PARTE* ATTACHMENT ON TRUSTEE PROCESS**

Tufts Associate Health Plan, Inc.; Tufts Associated Health Maintenance Organization Holdings, Inc.; and Tufts Associated Health Maintenance Organization, Inc. have filed a motion to dissolve an *ex parte* attachment granted by Maine Superior Court Justice Bradford before this case was removed to federal court. The motion is **DENIED**. Local Rule 64 adopts the state procedural rules for attachments. See D. Me. Civ. R. 64; see also Fed. R. Civ. P. 64. Under the state procedural rules, a party seeking to vacate an *ex parte* attachment must file an affidavit that attacks the findings of the judge who issued the attachment. See Me. R. Civ. P. 4A(h); see also Beesley v. Landmark Realty, Inc., 464 A.2d 936, 937 (Me. 1983) (“By failing to challenge *by affidavit* the finding . . . in the *ex parte* order, defendant was thus precluded from challenging the finding at the hearing on its motion to dissolve . . .”) (emphasis added).¹ The moving parties have filed no such affidavit. Consequently, they are asking me to re-examine Justice Bradford’s decision based solely upon the

¹ Before it was pared and renumbered (as R. 64), this Court’s local rule had a provision parallel to Me. R. Civ. P. 4A(h) that required an affidavit to be used in challenging an *ex parte* attachment order. See D. Me. Civ. R. 14(f), as amended Dec. 3, 1990 (repealed Mar. 1, 1997).

assertions made in their brief and by their lawyer at oral argument. That is both contrary to the Rule and inappropriate as a matter of judicial efficiency.

SO ORDERED.

DATED THIS 22ND DAY OF DECEMBER, 1999.

D. BROCK HORNBY
UNITED STATES CHIEF DISTRICT JUDGE