

Part 5. Miscellaneous Procedure Pending Final Judgment.

§ 1-440.36. Dissolution of the order of attachment.

(a) At any time before judgment in the principal action, a defendant whose property has been attached may specially or generally appear and move, either before the clerk or the judge, to dissolve the order of attachment.

(b) When the defect alleged as grounds for the motion appears upon the face of the record, no issues of fact arise, and the motion is heard and determined upon the record.

(c) When the defect alleged does not appear upon the face of the record, the motion is heard and determined upon the affidavits filed by the plaintiff and the defendant, unless, prior to the actual commencement of the hearing, a jury trial is demanded in writing by the plaintiff or the defendant. Either the clerk or the judge hearing and determining the motion to dissolve the order of attachment shall find the facts upon which his ruling thereon is based. If a jury trial is demanded by either party, the issues involved shall be submitted and determined at the same time the principal action is tried, unless the judge, on motion of any party for good cause shown, orders an earlier trial or a separate trial. (1947, c. 693, s. 1.)