2026 IL App (1st) 231461
Nos. 1-23-1461, 1-24-2124, and 1-24-2129, cons.

FIFTH DIVISION
September 18, 2026

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

VIVEK GUPTA, Individually and Derivatively on Behalf of Omni Medical Student Training, L.L.C. Plaintiff-Appellant, v. THERESA SIAW and ARTS MEDICAL CONSULTING, L.L.C., Defendants (Margaret Siaw-Woods, Intervenor-Appellee).	)	Appeal from the Circuit Court of Cook County. No. 2019 CH 06800 Honorable James E. Hanlon, Jr., Judge Presiding.

JUSTICE MIKVA delivered the judgment of the court.
Justice Mitchell concurred in the judgment.
Presiding Justice Oden Johnson dissented.

O R D E R

¶ 1 *Held*: We find the circuit court's refusal to enter a preliminary injunction was not an abuse of discretion and affirm the decision in appeal No. 23-1461. We dismiss appeal Nos. 24-2124 and 24-2129 for lack of appellate jurisdiction.

¶ 2 These three consolidated appeals grow out of Dr. Vivek Gupta's efforts to collect a judgment against Theresa Siaw and a related company. In appeal No. 23-1461, Dr. Gupta appeals

from an interlocutory order denying his motion for a preliminary injunction restraining four third-party transferees from accessing approximately $1.4 million that was transferred to them from the Theresa Siaw Exempt Trust (Exempt Trust). He alleged that those were fraudulent transfers under the Uniform Fraudulent Transfer Act (UFTA) (740 ILCS 160/1 *et seq.*) and were thus subject to restraint under section 2-1402 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1402 (West 2024)).

¶ 3 Following an evidentiary hearing, the circuit court dissolved a previously entered temporary restraining order and denied the requested preliminary injunction. Because we conclude that the circuit court acted within its discretion in determining that Dr. Gupta failed to establish entitlement to a preliminary injunction, we affirm.

¶ 4 Dr. Gupta also appeals two other orders entered by the circuit court in this collection action. Although we consolidated the three appeals, on review we determine that we have no jurisdiction over these two appeals, as neither is from a final judgment or an order otherwise appealable at this time. We dismiss those appeals.

¶ 5 I. BACKGROUND

¶ 6 In March of 2021, Dr. Gupta obtained judgments totaling $4,356,195.86 against Theresa Siaw and Arts Medical Consulting LLC, in an arbitration that arose out of her diversion of funds belonging to Omni Medical Student Training, LLC. Soon thereafter, Dr. Gupta initiated supplementary proceedings in an attempt to collect on those judgments.

¶ 7 As part of those proceedings, on May 18, 2023, Dr. Gupta filed an emergency motion requesting that the circuit court freeze five bank accounts belonging to four people whom Dr. Gupta alleged had received transfers totaling about 1.4 million dollars from the Exempt Trust. Ms. Siaw was the beneficiary of and one of two co-trustees of the Exempt Trust. The circuit court

entered a temporary restraining order to maintain the status quo while Dr. Dr. Gupta sought a preliminary injunction. On June 1, 2023, the second trustee of the Exempt Trust, Margaret Siaw-Woods, who is Theresa Siaw's sister, was permitted to intervene.

¶ 8 On June 23, 2023, the court conducted an evidentiary hearing at which the parties introduced documentary evidence and presented testimony concerning the administration of the Exempt Trust, the authorization of the challenged transfers, and the disposition of the transferred funds.

¶ 9 Following the hearing, the circuit court entered an order, denying the preliminary injunction and dissolving the temporary restraining order. Four days later, the court entered a more comprehensive written memorandum opinion explaining its reasoning. In that memorandum opinion, the court noted that it had already enjoined any further transfers of assets, either by the Exempt Trust or by Theresa Siaw, and that those restraints were not at issue in this case. Rather, in this case the circuit court was being asked to enter a preliminary injunction to freeze the bank accounts of four people who were relatives or friends of Teresa Siaw and had been transferred funds from her Exempt Trust. The circuit court noted that Dr. Gupta had not yet shown that he had any entitlement to those specific funds or to payment from the four transferees. The court refused to enter the preliminary injunction for the following reason.

¶ 10 The Exempt Trust contained a spendthrift provision designed to shield its assets from Theresa Siaw's creditors, and Dr. Gupta had not challenged that provision. His claim was that, once Theresa Siaw had transferred the funds out of the Trust, they were no longer exempt and, as a creditor, he could reach them. Ms. Siaw-Woods countered that the transfers were made without her consent—which was necessary since she was a co-trustee—and thus all funds remained legally those of the Exempt Trust and subject to the spendthrift provision.

¶ 11 The court looked at the four requirements for a preliminary injunction: (1) a protectable right; (2) irreparable harm; (3) an inadequate remedy at law; and (4) a likelihood of success on the merits.

¶ 12 The court concluded that Dr. Gupta had a protectible right either because he might be able to show that the transferees held money belonging to Theresa Siaw that was no longer exempt, or because he might be able to show that the transferees were liable to him directly as the recipients of fraudulent transfers. However, the court found that Dr. Gupta had not made a showing as to the other three requirements of a preliminary injunction.

¶ 13 The circuit court found that Dr. Gupta had not shown irreparable harm or an inadequate remedy at law because the ultimate relief he was seeking from the four transferees was a money judgment. The possibility that it would not be collectible did not mean that either of those two requirements was met. The court acknowledged that, if Dr. Gupta had a likelihood of success on his potential (but not yet filed) fraudulent conveyance claim against the transferees, the transfers out of the Exempt Trust could be specific funds to which Dr. Gupta could be entitled. If Dr. Gupta had such a claim for specific funds he could make a showing of both irreparable harm and an inadequate remedy at law. However, the court concluded that Dr. Gupta had not, at that point, shown a likelihood of success on his fraudulent conveyance claim.

¶ 14 The circuit court expressly found Ms. Siaw-Woods's testimony to be credible. She testified, and documents showed, that as co-trustee of the Exempt Trust, her approval was necessary for any transfers out of the Exempt Trust. She also testified that she approved none of these transfers. She acknowledged that she did direct a transfer of $25,000, but insisted that someone altered that direction to increase the amount to $325,000. Based on that testimony, the circuit court concluded that there was "a significant question about whether the transfers from the

Exempt Trust were made in accordance with the Trust's terms." If they were not, "the funds remained property of the Exempt Trust."

¶ 15 In addition, the court noted that except for one account, the transferred funds were gone from the transferees' accounts. The court rejected Dr. Gupta's request that it apply the equitable concept of "lowest intermediate balance" to find that there was a residue of Exempt Trust-sourced funds left in the transferees' accounts. It explained that that would require it to find that true ownership of the funds remained with the transferor, which arguably was the Exempt Trust, and that would in turn mean the funds could not be used to satisfy Dr. Gupta's judgment against Ms. Siaw.

¶ 16 The court then rejected Dr. Gupta's fraudulent transfer theories. Dr. Gupta could not show that the transfers were made with the intent of hindering, delaying, or defrauding creditors. Since, in the court's view, the transfers were made from an exempt trust, the assets of which could not be reached by creditors, the transfers if anything made the funds more accessible to creditors. Because the fraudulent transfer claims did not appear viable, the assets Mr. Gupta sought could not be viewed as specific funds to which he was entitled.

¶ 17 Finally, the court balanced the equities. The court pointed to the absence of any evidence that the four transferees did anything unlawful. At that point, the court had not found that it even had jurisdiction over three of them and there were issues regarding whether they had been properly served. The court noted that if and when Dr. Gupta established jurisdiction (which he now has) and a meritorious claim (still unresolved) he could obtain judgments against the four transferees and that claim could be satisfied with a money judgment. The court was not persuaded, however, that Dr. Gupta had demonstrated he was entitled to injunctive relief freezing the accounts of individuals who were not judgment debtors before a clear answer had been reached regarding the

ownership of the funds in question.

¶ 18 II. JURISDICTION

¶ 19 On August 14, 2023, Dr. Gupta filed his notice of appeal in appeal No. 23-1461, challenging the circuit court's denial of his request for a preliminary injunction. We have jurisdiction over that appeal pursuant to Illinois Supreme Court Rule 307(a) (eff. Nov. 1, 2017). That appeal is timely as to the July 14, 2023, order denying the preliminary injunction, as well as the subsequent memorandum opinion entered on July 18, 2023, which provided the trial court's reasoning in more detail.

¶ 20 In appeal No. 24-2124, Dr. Gupta appeals from an order entered by the court on September 23, 2024, granting Ms. Siaw Woods $27,262.96 in attorneys' fees related to the initial emergency order that was vacated after the preliminary injunction hearing. Dr. Gupta cites Illinois Supreme Court Rule 304(b) as the basis for our jurisdiction. That Rule does allow for an appeal from a *final* order in a collection proceeding, under section 2-1402 of the Code (735 ILCS 5/2-1402) (West 2024)). Ill. S. Ct. R. 304(b)(4) (eff. Mar. 8, 2016). This is a collection proceeding under section 2-1402. However, the collection efforts generally and the specific collection efforts regarding the transfers from the Exempt Trust to these four transferees are still ongoing. There was nothing final about the award of fees and thus no basis for our jurisdiction.

¶ 21 In appeal No. 24-2129. Dr. Gupta appeals four orders entered by the circuit court on September 23, 2024, allowing Ms. Siaw Woods to take certain actions as co-trustee of the Exempt Trust or as trustee of another exempt trust. None of these are final orders of any kind, and Dr. Gupta cites Illinois Supreme Court Rule 307(a) (eff. Nov. 1, 2017), which allows for interlocutory appeals as of right, as the basis for our jurisdiction. Dr. Gupta does not explain, however, and nor can we fathom why any of those orders would fall within that Rule. Thus, in our view our

jurisdiction in this case is limited to considering the question raised in appeal No. 23-1461: whether the court abused its discretion in refusing to grant a preliminary injunction.

¶ 22 III. ANALYSIS

¶ 23 A. Supplementary Proceedings

¶ 24 This appeal is from an order in a supplementary proceeding. Section 2-1402 of the Code provides that a judgment creditor, such as Dr. Gupta, may initiate such a proceeding to discover the assets of a judgment debtor or a third party, for the purpose of applying those assets to satisfy a judgment that the creditor has already obtained. *Professional Neurological Services, Ltd. v. City of Chicago Comm'n on Human Relations*, 2025 IL App (1st) 231705, ¶ 11; 735 ILCS 5/2-1402 (West 2024).

¶ 25 Section 2-1402(a) of the Code (735 ILCS 5/2-1402 (West 2024)) broadly states that a judgment creditor is "entitled to prosecute citations to discover assets for the purposes of examining the judgment debtor or any other person." (Emphasis added.) The statute's implementing rule, Illinois Supreme Court Rule 277 (eff. Oct. 1, 2021), provides that a supplementary proceeding "may be against the judgment debtor or any third party the judgment debtor believes has the property of or is indebted to the judgment debtor." Ill. S. Ct. R. 277(a) (eff. Oct. 1, 2021).

¶ 26 A preliminary injunction is an extraordinary remedy designed to preserve the status quo until the merits of the controversy can be fully adjudicated. *O'Malley v. Adams*, 2024 IL App (5th) 240094, ¶ 30. A party seeking such relief bears the burden of establishing (1) a clearly ascertainable right in need of protection; (2) irreparable injury absent the injunction; (3) the absence of an adequate remedy at law; and (4) a substantial likelihood of success on the merits. *Id.* The failure to establish any one of these requirements is sufficient to justify denial of the requested

relief. *Maday v. Township High School District 211*, 2018 IL App (1st) 180294, ¶ 40.

¶ 27 The decision whether to grant or deny a preliminary injunction rests within the sound discretion of the circuit court. *Dam, Snell and Taveirne, Ltd. v. Verchota*, 324 Ill. App. 3d 146, 155 (2001). Accordingly, our review under Rule 307(a)(1) is limited. We do not decide the ultimate merits of the underlying claims, nor do we resolve disputed questions concerning ownership of the property at issue. Rather, we determine only whether the circuit court abused its discretion in concluding that Dr. Gupta failed to establish entitlement to extraordinary interim relief. *Id.*

¶ 28 Dr. Gupta principally argues that the circuit court erred in concluding that he failed to establish a likelihood of success on the merits. He contends that Theresa Siaw either authorized or subsequently ratified the challenged transfers, thereby transforming the transferred trust assets into her own property before they were conveyed to the third-party transferees. According to Dr. Gupta, the resulting transfers constituted fraudulent conveyances under the UFTA because they were transfers of a debtor's property made to "without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time." 740 ILCS 160/6(a) (West 2024).

¶ 29 The circuit court rejected that theory after considering conflicting testimony and documentary evidence concerning the administration of the trust. In particular, the court expressly credited the testimony of co-trustee Margaret Siaw-Woods that she did not authorize the challenged transfers and concluded that Dr. Gupta had failed to demonstrate that the transactions constituted authorized trust distributions rather than disputed transfers of trust assets. In the circuit court's view, it appeared likely that the money transferred still belonged to the Exempt Trust and thus could not be given to Dr. Gupta to satisfy his judgment against Ms. Siaw.

¶ 30 We find no abuse of discretion in that determination.

¶ 31 The evidentiary hearing presented disputed factual questions concerning trustee authorization, the legal effect of the governing trust instruments, and the ownership of the transferred funds. The circuit court resolved those disputes after observing the witnesses and evaluating their credibility. Although Dr. Gupta identifies evidence and cites law supporting contrary inferences, the existence of conflicting evidence and some support in the law does not permit this court to substitute its judgment for that of the circuit court. See *Vician v. Vician*, 2016 IL App (2d) 160022, ¶ 29 (noting that the appellate court "give[s] great deference to the trial court's credibility determinations, and we will not substitute our judgment for that of the trial court").

¶ 32 Dr. Gupta correctly observes that a plaintiff seeking a preliminary injunction need establish only a fair question regarding the existence of the claimed right. *Happy R Securities, LLC v. Agri0Sources, LLC*, 2013 IL App (3d) 120509, ¶ 54. The circuit court, however, concluded that Dr. Gupta failed to make that showing because the legal status of the transferred funds remained dependent upon disputed questions concerning trust administration and trustee authority. There were also difficult and unresolved legal issues surrounding the transfer of assets out of a debtor's exempt trust. On the present record, we cannot say that the circuit court's conclusions exceeded the bounds of reasonable judicial discretion.

¶ 33 Dr. Gupta argues that absent an injunction, the disputed funds may be dissipated before final judgment, thereby frustrating his ability to collect on the judgments he hopes to get against the four transferees. He emphasizes both the size of the transfers and the ease with which financial assets may be moved beyond the reach of creditors.

¶ 34 Those concerns are not insubstantial. However, this injunction seeks to freeze bank accounts of four individuals who have not yet been found liable to Dr. Gupta. The risk that they

may be found liable but that collection from them will be difficult does not establish irreparable injury. See *Franz v. Calaco Development Corp.*, 322 Ill. App. 3d 941, 947 (2001) (noting that "[t]aking away the control of property by means of an injunction for the purpose of anticipating a judgment is abhorrent to the principles of equitable jurisdiction").

¶ 35 If indeed these turn out to be fraudulent transfers, the transferred funds may be specific funds belonging to Dr. Gupta. *Id.* However, the circuit court found that almost all of the funds had already left the transferees' bank accounts. Dr. Gupta disputed that finding, both in the circuit court and in this court, arguing that the equitable accounting concept of lowest intermediate balance should apply. The circuit court reasoned that concept could only apply if the funds still belonged to the transferor and noted that, if the transferor was the Exempt Trust, Dr. Gupta could not recover those funds. We also note that the passage of time since the preliminary injunction was denied over three years ago makes it even more likely that the transferred funds are long gone.

¶ 36 The requested injunction would have frozen accounts maintained by several individuals who were not judgment debtors and who asserted ownership interests independent of Theresa Siaw. The circuit court reasonably recognized that issuing such relief before resolving the disputed ownership of the funds carried its own substantial equitable consequences. Whether the challenged transfers ultimately prove to be recoverable under the UFTA remains to be determined in the circuit court. At this preliminary stage, however, the court was entitled to weigh the potential hardship imposed upon the transferees against Dr. Gupta's interest in preserving assets whose legal status remained disputed.

¶ 37 Dr. Gupta devotes considerable attention on appeal to the legal effect of Theresa Siaw's alleged consent to, or ratification of, the challenged transfers. He likewise argues that the circuit court misinterpreted the governing trust instruments and incorrectly concluded that unauthorized

trustee conduct could not result in a valid distribution of trust assets. The appellees respond that the challenged transfers remained trust property as a matter of law and therefore never became assets of the judgment debtor capable of fraudulent transfer.

¶ 38 We decline to resolve those questions in this interlocutory appeal. Our review under Rule 307(a)(1) is confined to the propriety of the order denying preliminary injunctive relief. Because we conclude that the circuit court acted within its discretion in determining that Dr. Gupta failed to establish entitlement to extraordinary interim relief, resolution of those broader questions is unnecessary to disposition of this appeal.

¶ 39 IV. CONCLUSION

¶ 40 The denial of a preliminary injunction does not determine the ultimate rights of the parties. It reflects only the circuit court's determination that extraordinary interim relief was not warranted on the record before it. Given the deferential standard governing our review under Illinois Supreme Court Rule 307(a)(1), the disputed factual and legal questions concerning ownership of the transferred assets, and the circuit court's determination that Dr. Gupta failed to establish the prerequisites for equitable relief, we cannot conclude that the circuit court abused its discretion.

¶ 41 The judgment of the circuit court of Cook County denying plaintiff's motion for a preliminary injunction is therefore affirmed.

¶ 42 Decision in appeal No. 23-1461 is affirmed. Appeal Nos. 24-2124 and 24-2129 are dismissed for lack of appellate jurisdiction.

¶ 43 Presiding Justice Oden Johnson, dissenting:

¶ 44 In this appeal, plaintiff and judgment creditor, Vivek Gupta, challenges the trial court's termination of injunctive relief which it had previously granted him. The termination was based, in part, on the trial court's finding that Gupta could not show that the balance of hardships favored

him, where it had not yet been established that Illinois courts had personal jurisdiction over three of the four individuals to whom the debtor had transferred money. However, the trial court later found jurisdiction over one of the three transferees, and this panel has since found jurisdiction over another (*Gupta v. Siaw*, 2026 IL App (1st) 231461, ¶¶ 12-13). With personal jurisdiction now established over the majority of the transferees, the balance of hardships has shifted. Most of the remaining orders challenged in this consolidated appeal flowed from the order terminating Gupta's injunctive relief. Thus, while I agree with the majority that appeal 24-2129 should be dismissed for lack of jurisdiction, I would nonetheless vacate both the order terminating injunctive relief (appeal no. 23-1461) and the order finding wrongful attachment and the resulting attorney fees order (appeal no. 24-2124). As a result, I must respectfully dissent.

¶ 45 BACKGROUND

¶ 46 I have included this background section because there are some specific facts that were omitted from the majority, which are relevant and necessary to give the context from which I am led to dissent.

¶ 47 During supplementary proceedings to collect on the judgement against Theresa Siaw, Gupta learned that Theresa was the beneficiary of certain trusts, including the 2015 Theresa Siaw Exempt Trust (Exempt Trust). There are three Siaw sisters: Theresa, the judgment debtor, and her two sisters, Margaret, who is a cotrustee of the Exempt Trust, and Beatrice, whom I discuss below. See *In re Estate of Emmanuel K. Siaw*, 2015 IL App (1st) 141070-U, ¶ 5 (Emmanuel K. Siaw had 3 living daughters).

¶ 48 After Gupta discovered transfers from various trusts to Theresa, the judgment debtor, he tried to enjoin further transfers and freeze what moneys were still left in the United States. The trial court found that "[m]uch of the transfers discovered by Gupta landed in [Theresa's] hands in

Ghana."[1] *Gupta*, No. 2019 CH 06800 (Cir. Ct. Cook Co., Sept. 23, 2024). However, some of the transferred funds were still in the United States, and Gupta sought to freeze the bank accounts of four individuals to whom Theresa had transferred funds from the Exempt Trust, claiming that these transfers were fraudulent.

¶ 49 Gupta filed an emergency motion to freeze the accounts of the four allegedly fraudulent transferees, whom the trial court nicknamed "the Frozen Four." The Frozen Four were: Amoateng, Dunyo Awoonor, Margaret Adatsi, and Sabha Abour, who were subsequently served with citations by Gupta.[2] On May 25, 2023, the trial court granted Gupta a temporary order[3] freezing the four bank accounts until a hearing could be held. On July 14, 2023, after an evidentiary hearing was held, the trial court terminated its prior temporary order and denied Gupta's motion. The trial court found, among other things, that Gupta failed to show that the balance of hardships favored granting a preliminary injunction, where it had not yet been established that Illinois had personal jurisdiction over three of the four transferees, namely, Amoateng, Awoonor and Aditsi. The court noted that the remaining transferee, Abour, had "participated in these proceedings" to vacate the May 23, 2023, injunction that had frozen her account.[4] As of July 18, 2023, the trial court noted

[1] As the trial court observed, Ghana is not a signatory of the Hague Convention on Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters. See Solomon Okarley, "The possible impact of the 2019 Hague Convention on the recognition and enforcement of foreign judgments in civil or commercial matters on the grounds of international competence in Ghana," University of Cape Coast Journal, 2022. https://journal.ucc.edu. gh>article>download (last viewed June 15, 2026).

[2] In its December 27, 2023, order, the trial court acknowledged that each of the four transferees was eventually served with a citation by Gupta.

[3] I refer to this order simply as a temporary order rather than as a temporary restraining order (TRO), because in its December 27, 2023, order, the trial court acknowledged that the parties disputed whether the trial court's order was an attachment or a TRO, but the court refused to resolve the issue. Instead, the court stated it found support for both positions and declined to clarify which it had entered, on the ground that they were" functionally and legally the same."

[4] In its December 27, 2023, order the trial court specified in a footnote: "Abour, one of the Frozen Four, had made an oral motion at the evidentiary hearing to dissolve the injunction as wrongfully issued, and later orally joined [Margaret's] motion here" for wrongful attachment.

that Amoateng had filed a motion attacking personal jurisdiction, while Awoonor[5] and Aditsi had not yet appeared.

¶ 50 The trial court also found that Gupta did not have a likelihood of success on the merits regarding his theory that the funds represented proceeds of fraudulent transfers by Theresa, the judgment debtor. As the trial court subsequently explained, "[t]he essence of [the July 14, 2023] decision was that none of the challenged transfers could be fraudulent transfers as to [Theresa's] creditors (Gupta included) because the funds came from a source (the Exempt Trust) that was exempt from judgement collection efforts." *Gupta*, No. 2019 CH 06800 (Cir. Ct. Cook Co., Sept. 23, 2024).

¶ 51 On August 14, 2023, Gupta filed his first interlocutory appeal, No. 1-23-1461, pursuant to Illinois Supreme Court Rule 307(a) (eff. Nov. 1, 2017), appealing the July 14, 2023, order, as well as a subsequent memorandum opinion entered on July 18, 2023, which provided the trial court's reasoning in more detail.

¶ 52 After the May 25, 2023, temporary order was terminated, Margaret filed a motion for wrongful attachment against Gupta and for leave to file a petition against him for related attorney fees. On December 27, 2023, the trial court found that Gupta had wrongfully attached the accounts and granted Margaret's wrongful-attachment motion. On September 23, 2024, the trial court reviewed two fee petitions arising out of the May 25, 2023, temporary order: one from Theresa, the judgment debtor, and one from Margaret. The trial court denied Theresa's petition but granted Margaret's petition for $27,262.96. On the same day, namely, October 23, 2024, Gupta filed two separate interlocutory appeals. Appeal No. 1-24-2124, which I will call the second appeal, was filed pursuant to Illinois Supreme Court Rule 304(b) (eff. Mar. 8, 2016). It appealed both the trial

[5] Awoonor later moved to challenge personal jurisdiction, which the trial court denied on October 2, 2023.

court's December 27, 2023, order finding wrongful attachment by him and the trial court's September 23, 2024, order which granted Margaret's fee petition.

¶ 53 ANALYSIS

¶ 54 I. Supplementary Proceedings

¶ 55 The issues in this appeal arose within the context of a supplementary proceeding. Section 2-1402 of the Code of Civil Procedure (Code) permits a supplementary proceeding in which a judgment creditor, such as Gupta, may initiate a proceeding to discover the assets of a judgment debtor or a third party, for the purpose of applying those assets to satisfy a judgment that the creditor has already obtained. *Professional Neurological Services, Ltd. v. City of Chicago Comm'n on Human Relations*, 2025 IL App (1st) 231705, ¶ 11; 735 ILCS 5/2-1402 (West 2024) ("Citations to discover assets").[6]

¶ 56 Section 2-1402(a) of the Code (735 ILCS 5/2-1402 (West 2024)) broadly states that a judgment creditor is "entitled to prosecute citations to discover assets for the purposes of examining the judgment debtor *or any other person*." (Emphasis added.) The statute's implementing rule, Illinois Supreme Court Rule 277 (eff. Oct. 1, 2021), provides for two categories of parties against whom a judgment creditor may initiate supplementary proceedings: (1) the judgment debtor and (2) third parties whom the judgment creditor believes may have property of, or may be indebted to, the judgment debtor. Ill. S. Ct. R. 277(a) (eff. Oct. 1, 2021) (a supplementary proceeding "may be against the judgment debtor or any third party the judgment debtor believes has the property of or is indebted to the judgment debtor"); *Shipley v. Hoke*, 2014 IL App (4th) 130810, ¶ 92.

¶ 57 II. The First Appeal 23-1461

[6] Changes that took effect January 1, 2026, have no effect on appellate issues. Pub. Act 104-120, § 10 (eff. Jan. 1, 2026).

¶ 58 The appeals are largely a tower of cards resting on the underlying order terminating the Frozen-Four order. If the terminating order is valid, then the rest of the appeals fall. In the terminating order, dated July 18, 2023, the trial court found that "this is a close case." The court observed that a "final trial on the merits of Gupta's section 1402(f)(2) and fraudulent conveyance claims may produce a judgment in his favor." However, largely due to the fact that the trial court found Margaret to be a credible witness, the trial court found that a judgment in Gupta's favor was "too far uncertain now to support entry of an injunction that would act as a prejudgment attachment."

¶ 59 Also, the trial court found that the balance of hardships did not favor Gupta where it was not yet established that the court had personal jurisdiction over three of the four transferees. *Gupta v. Siaw*, No. 2019 CH 06800 (Cir. Ct. Cook Co. July 18, 2023) at. 12. Now that this issue has been resolved, where one chose not to appeal, and we have unanimously found jurisdiction over another, the balance in that regard has shifted, with Illinois now having jurisdiction over a majority of the transferees.

¶ 60 I agree that an abuse of discretion standard of review applies to a trial court's decision to grant or deny a preliminary injunction. *Ron & Mark, LLC v. Bank of Herrin*, 2024 IL App (5th) 230274, ¶ 45. While the majority does not address the trial court's findings in favor of Gupta for the first three elements required for injunctive relief, I address them in turn. A party seeking injunctive relief must establish four elements: (1) a right in need of protection; (2) irreparable harm that will occur without the relief; (3) an inadequate remedy at law; and (4) a likelihood of success on the merits. *Illinois Beta Chapter of Sima Phi Epsilon Fraternity Alumni Board v. Illinois Institute of Technology*, 409 Ill. App. 3d 228, 231 (2011). "To establish a likelihood of success, [the party] need only raise a fair question regarding the existence of a claimed right and a fair

question that he will be entitled to the relief prayed for if the proof sustains the allegations." *Kalbfleisch v. Columbia Community Unit School No. 4*, 396 Ill. App. 3d 1105, 1114 (2009). Even if the party makes a *prima facie* showing as to each element, a trial court may not issue a preliminary injunction if the balance of hardships weighs in favor of granting the injunction. *J.L. Properties Group B, LLC v. Pritzker*, 2021 IL App (3d) 200305, ¶ 60.

¶ 61 In the case at bar, the trial court found Gupta established the first element, a protectable right. Gupta had advanced two theories regarding protectable rights:1) that the four transferees held property that may belong to Theresa, which was no longer exempt because it was no longer held by the Exempt Trust and 2) that the four transferees were liable to him directly under the Illinois Uniform Fraudulent Transfer Act (UFTA) (740 ILCS 160/1, *et seq* (West 2024). The trial court agreed, finding that "[t]hese two theories provide Gupta with protectable rights."

¶ 62 The second element is irreparable harm. While noting that irreparable harm generally means harm that cannot be remedied through an award of money damages, the trial court also noted (1) that an exception exists if the movant has an interest in specific funds and (2) that a fraudulent conveyance claim, such as the claim that Gupta made, can give rise to an interest in specific funds. However, the trial court found that Gupta had not made a showing of likely success on his fraudulent conveyance claim, thereby collapsing this second element of irreparable harm into the fourth element of likelihood of success.

¶ 63 With respect to the third element, inadequate remedy at law, the trial court found this element lacking for the same reason as the second element, namely, because of the possibility of a monetary remedy. However, the trial court found the same exception exists, namely, an exception when the claimant has an interest in specific funds. The trial court explained that "[a]n injunction freezing assets looks and feels just like a prejudgment attachment." Regarding prejudgment

attachment, the trial court cited section 4-101 of the Code (735 ILCS 5/4-101(West 2024), which permits attachment by a creditor having a money claim against the property of the debtor in eleven circumstances, including when the debtor is not a resident of this state or when the debtor is about to remove her property from this state to the injury of the creditor.

¶ 64 The trial court then quoted from a supporting case which noted that, while attachment for purposes of anticipating a judgment is disfavored and not one of the eleven circumstances, there is an exception " 'when the claimant has an interest in specific funds.' " *Gupta v. Siaw*, No. 2019 CH 06800 *(*Cir. Ct. Cook Cty, July 18, 2023), at 6, quoting *Kurti v. Silk Plants Etc. Franchise Systems, Inc.*, 200 Ill. App. 3d 605, 611 (1990). However, the court again found that the specific funds exception did not work, since Gupta lacked the fourth element, namely, a likelihood of success on the merits. Thus, as it had done with the second element, the trial court collapsed the third element of inadequate remedy at law into the fourth element of likelihood of success.

¶ 65 Turning to the fourth element, the likelihood of success on the merits, the trial court stated that it found Margaret's "testimony that she authorized none of the transfers to be credible." Since the Exempt Trust's terms required authorization by both trustees, namely both Margaret and Theresa, the court found that, although funds were transferred out of it, "the funds transferred [out of it] remain legally the property of the Exempt Trust." The court found that Theresa "likely made those transfers for her own (perhaps misguided) reasons." The trial court found that, as the legal property of the Exempt Trust, the funds were still exempt and protected from creditors like Gupta.

¶ 66 Assuming that Margaret was credible as the trial court found, and that the money was transferred without her consent, then the money was fraudulently transferred. The trial court's reasoning that the transferred money legally belonged to the trust was less than compelling when Margaret had done nothing legally, prior to Gupta's action, to get it back, thereby abdicating any

legal right to it to Theresa and friends.[7] Saying that it was illogical for Theresa to transfer funds to avoid Gupta, when her money was protected in the Exempt Trust and would lose that protection when transferred out of it, overlooks the reality that the money was transferred through friends and family for use by Theresa, while avoiding having to pay Gupta. In its September 23, 2024, order, the trial court acknowledged that: "Much of the money [Theresa] transferred did land in her account(s) in Ghana." For these reasons, I find that the trial court's ruling on this element was arbitrary.

¶ 67 Turning lastly to the balance of hardships, the trial court found that it was "not established that this Court has jurisdiction over three of the Four Transferees" and that the lack of jurisdiction counseled against freezing their accounts. However, this panel unanimously reversed the trial court and found that Illinois did have personal jurisdiction over Beatrice and Amoateng. *Gupta v. Siaw*, 2026 IL App (1st) 232051, ¶ 1; see also *Siaw*, 2015 IL App (1st) 141070-U, ¶ 11 (prior invocation of Illinois jurisdiction by sisters Beatrice and Margaret). Thus, the balance of hardships has now swung the other way, with Illinois having jurisdiction over three of the four transferees. In light of the change in jurisdictional rulings, and my finding that the trial court's ruling was arbitrary, I would vacate the trial court's order of July 18, 2023, and remand for further proceedings consistent herewith.

¶ 68 III. Attorney Fees for Wrongful Attachment

¶ 69 On October 23, 2024, Gupta filed his second appeal, no. 1-24-2124, from the trial court's memorandum opinion and order entered September 23, 2024, granting Margaret's fee petition resulting from the wrongful attachment order entered on December 27, 2023. The wrongful

[7] After Margaret obtained the termination of the Frozen Four order, Margaret signed an agreement with Awoonor, one of the four, where he agreed to return some of the money transferred by Theresa back to the Exempt Trust. The transfers are like a vast shell game, where moneys are moved, anywhere but Gupta.

attachment order was based on the terminating order that, as I explained above, I would vacate. Thus, Margaret's claim must fail as well.[8] *Neri v. J.I. Case Co.*, 207 Ill. App. 3d 409, 411-12 (1991) (the order terminating the attachment is the basis for subsequent damages).

¶ 70 In addition, in its December 27, 2023, order, the trial court found that "something more" than an improvident exercise of discretion was required to find that the prior order was "wrongfully" entered. In support, the trial court cited *C.D. Peters Construction, Co. v. Tri-City Regional Port District*, 281 Ill. App. 3d 41, 56 (1996), which found that the termination of a TRO[9] at the conclusion of a hearing does not mean it was wrongfully entered and that a determination that it was wrongfully entered was a prerequisite to damages. In the case at bar, the trial court found it needed "something more" principally because Gupta had not "to this day" filed a fraudulent conveyance claim in this suit against any of the Frozen Four. This led the trial court "to conclude that Gupta was not genuine in his application for a freeze." However, the trial court failed to explain why Gupta would file such a claim in this case *after* the court had ruled against him and freed the assets that could reward such a claim.[10]

¶ 71 In its terminating order of July 18, 2023, the trial court found that, except for Amoateng, "the transferred funds are gone from the Four Transferees' accounts." However, in its subsequent September 23, 2024, order awarding attorney fees, the trial court found that Margaret had subsequently "recover[ed]" $125,000 of the transferred funds from Awoonor. While acknowledging that it had previously found that Awoonor no longer held funds transferred by

[8] There is a further question about whether Margaret has standing to argue for fees to unfreeze the accounts of four other people; but given our conclusions, it is a question I need not reach.

[9] In its December 27, 2023, order, the trial court refused to clarify whether it had entered a TRO or a prejudgment attachment and, instead, applied the rules for both when ruling.

[10] In any event, as the trial court observed in one of its September 23, 2024, orders, Gupta did file a separate lawsuit alleging fraudulent transfers based on these same transfers and exercised his right to substitution of judge. The fraudulent conveyance claims were filed in circuit court case no. 2023 CH 9109, which was subsequently transferred to the Law Division.

Theresa, the court nonetheless approved a settlement agreement whereby Awoonor turned the funds over--not to Gupta, who was owed money--but back to the Exempt Trust. The turn-over shows that the court's prior finding about the inability of a turn-over was clearly in error.

¶ 72 On these facts, "something more" is certainly not present. The irony is rich that, of all people here, it was Gupta who was labeled "wrongful," when moneys moved out and back, but never into his hands. Thus, I would vacate the wrongful attachment order, dated December 27, 2023, and the subsequent order, dated September 23, 2024, granting Margaret's fee petition.

¶ 73 CONCLUSION

¶ 74 For the foregoing reasons I would reverse and vacate the July 18, 2023, order as to appeal no. 23-1461, and vacate the September 23, 2024, order granting attorney fees as to appeal no. 24-2124. I would dismiss appeal no. 1-24-2129 for lack of jurisdiction, without prejudice to filing an amended appeal limited to the modification of injunctive relief pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017). Hence, I respectfully dissent.