STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1345

The Estate of Michael T. Conneran, Jr.,
Respondent,

vs.

Michelle Knipe, et al.,
Appellants.

Filed July 5, 2022
Affirmed
Smith, Tracy M., Judge

Polk County District Court
File No. 60-CV-20-1971

Benjamin J. Hasbrouck, Abigale R. Griffin, Fredrikson & Byron, P.A., Fargo, North Dakota (for respondent)

Curtis D. Ripley, Ryan D. Fullerton, Pemberton Law, P.L.L.P., Alexandria, Minnesota (for appellants)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Respondent The Estate of Michael T. Conneran, Jr., sued appellants Michelle Knipe, Vesper Properties II, LLC, The Tax Minimizers, LLC, and Greg Crane in connection with the sale of real property and shares of stock that had been owned by Conneran before his death. Appellants moved to dismiss the lawsuit for, among other

reasons, lack of personal jurisdiction. The estate, meanwhile, moved for temporary injunctive relief or prejudgment attachment to escrow rental income from the real property pending resolution of the case. The district court denied appellants' motion to dismiss, concluding that the estate had made a prima facie showing of personal jurisdiction, and granted the estate's request to escrow cash-rent payments. Appellants challenge both decisions. We conclude that the district court did not err by concluding that the estate made a prima facie showing that appellants had sufficient minimum contacts with Minnesota to satisfy due-process requirements for personal jurisdiction at the motion-to-dismiss stage and that the district court did not abuse its discretion by ordering that cash-rent payments be placed in escrow pending resolution of the case. We therefore affirm.

FACTS

This recitation of facts derives from the estate's amended complaint and the affidavits that the estate submitted in support of its prima facie showing of the existence of the district court's personal jurisdiction over the appellants. *See Rilley v. MoneyMutual, LLC*, 884 N.W.2d 321, 326 (Minn. 2016) (explaining that courts must take as true the factual allegations in the complaint and supporting affidavits when determining whether the plaintiff has made a prima facie showing of the existence of personal jurisdiction).

Michael T. Conneran, Jr., was a resident of Arizona and owned farmland in Polk County, Minnesota, purportedly worth about $5.5 million, and shares of stock in American Crystal Sugar Company (ACS), a Minnesota cooperative, purportedly worth about $4.1 million. Conneran rented the farmland to Adams Family Farms, a North Dakota entity, and there were leases between Conneran and Adams Family Farms for the 2020, 2021, and

2022 crop years. The ACS stock related to beets farmed by Jay Gudajtes, a Minnesota farmer.[1] Conneran had borrowed about $1.2 million with Town and Country Credit Union, with the loans secured by the farmland and the ACS stock.

Conneran died intestate on September 26, 2020. Before his death, Conneran had long struggled with substance abuse, causing him significant health issues and a decline in his mental capacity. During some of his hospitalizations, Conneran was subject to guardianships and/or conservatorships, with members of his family serving as his guardian and/or conservator. Conneran made allegations that family members serving as his guardians and/or conservators acted improperly in those roles, but Arizona courts determined that Conneran's claims had no merit.

In 2015, Knipe, an Arizona resident, and her business Tax Minimizers, an Arizona entity, began providing accounting and related services to Conneran. On December 4, 2017, Conneran apparently executed a general power of attorney naming Knipe as his agent and attorney-in-fact, giving Knipe broad power over Conneran's finances, property, and transactions. Conneran's sister, in an affidavit, stated that she is familiar with Conneran's signature and does "not believe that [Conneran] actually signed the power of attorney" and that, in her opinion, "that is not his signature."

On October 4, 2019, Knipe, acting as Conneran's attorney-in-fact, executed an asset purchase agreement with Vesper Properties, selling to Vesper Properties the farmland and

[1] An affidavit submitted to the district court describes Gudajtes simply as an "area farmer," but, at oral argument before this court, counsel for appellants said: "I believe Mr. Gudajtes is in Minnesota."

the ACS stock for $7.5 million. Vesper Properties is an Arizona entity, and its owner is Greg Crane, an Arizona resident. Under the agreement, Vesper Properties was to pay Conneran $100,000 upon signing and the remaining balance pursuant to a promissory note. Vesper Properties would also receive "100% of all dividend, lease and or other income in regard to the Assets." Pursuant to the promissory note, the remaining $7.4 million would be due on July 2, 2040 (when Conneran would have been 81 years of age), and Vesper Properties would not owe Conneran interest. Conneran would pay all loans, property taxes, and insurance, but he could not borrow against the property. Further, any remaining debts would be satisfied at the time of Conneran's death. Ultimately, Vesper Properties paid about $262,000 to Conneran prior to his death.

Also on October 4, 2019, Knipe, acting as Conneran's attorney-in-fact, executed a warranty deed that made Conneran and Vesper Properties joint tenants in the farmland. Knipe recorded or caused to be recorded this deed, along with the power-of-attorney document, in Polk County. Knipe also recorded or caused to be recorded in Polk County a mortgage that Vesper Properties executed on the property to secure the debt that it owed to Conneran. She additionally executed and then recorded or caused to be recorded in Polk County a transfer-on-death deed that would fully transfer the farmland to Vesper Properties upon Conneran's death.

In October 2020, following Conneran's death, his sister, Paula Conneran-Weig, was appointed as the personal representative of the estate in an Arizona probate action. Though not a formal party to this appeal, Conneran-Weig apparently resides outside of Minnesota.

The estate brought this action in Minnesota in November 2020. In its amended complaint, the estate alleges that Knipe acted in concert with Tax Minimizers, Vesper Properties, and Crane to fraudulently obtain Conneran's farmland and ACS stock. The estate alleges that the entire transaction is void or voidable due to fraud, breach of fiduciary and other duties, undue influence, lack and/or failure of consideration, and Conneran's lack of capacity, and asks the district court to void the transaction, quiet title in favor of the estate, and award the estate any appropriate damages.

In January 2021, Crane contacted Steve Adams of Adams Family Farms and informed him that Vesper Properties was now the owner of the farmland and that new leases would have to be prepared. Crane did not tell Adams that there was a dispute as to ownership of the land. Adams Family Farms and Vesper Properties entered into new leases for the farmland with the same terms as the prior leases with Conneran. Rent in the amount of $234,311.70 was due from Adams Family Farms to Vesper Properties on March 1, 2021. Counsel for the estate proposed to appellants' counsel that those funds be placed in escrow to protect Adams Family Farms from being doubly liable for rent. Adams Family Farms supported that request. After that request, Crane contacted Adams and demanded the rent payment, threatening eviction if the payment was not promptly paid. Family Farms paid the rent to Vesper Properties, but Adams felt that he was coerced into doing so. Vesper Properties also demanded that Gudajtes pay it the approximately $250,000 that he owed Conneran in relation to the ACS stock.

Town and Country Credit Union, a North Dakota entity, intervened in this case to notify the parties that it held a $1.2 million loan against the farmland and ACS stock and that it would soon be forced to commence a foreclosure action.

Against this backdrop, appellants moved to dismiss the action, contending, among other things, that the district court did not have personal jurisdiction over the appellants. The estate moved for a temporary injunction and prejudgment attachment, asking the district court to place all cash rent that has been or may become due, including the rent paid by Adams Family Farms to Vesper Properties, in escrow pending the case's resolution. The district court denied appellants' motion to dismiss, concluding that the estate had made a prima facie showing of the district court's personal jurisdiction over appellants, and granted the estate's motion, ordering that the rent already received from Adams Family Farms by Vesper Properties and any future rent payments be placed in escrow.

This appeal follows.

DECISION

Appellants challenge the district court's denial of their motion to dismiss based on lack of personal jurisdiction pursuant to Minn. R. Civ. P. 12.02(b), arguing that they did not have sufficient minimum contacts with Minnesota to satisfy due process. Additionally, appellants challenge the district court's grant of the estate's motion for injunctive relief and prejudgment attachment.

I. The estate sufficiently alleged a prima facie case of personal jurisdiction over the appellants.

The existence of personal jurisdiction is a question of law that we review de novo. *See Juelich v. Yamazaki Mazak Optonics Corp.*, 682 N.W.2d 565, 569 (Minn. 2004). "When reviewing a motion to dismiss for lack of personal jurisdiction, we determine whether, taking all the factual allegations in the complaint and supporting affidavits as true, the plaintiff has made a prima facie showing of personal jurisdiction." *Rilley*, 884 N.W.2d at 326. At the motion-to-dismiss stage, the initial determination of personal jurisdiction is only a prima facie determination, based on allegations, not facts; "the defendant is not foreclosed from a complete litigation of the issue at trial on the merits." *Wuertz v. Garvey*, 178 N.W.2d 630, 632 (Minn. 1970). The plaintiff must, at a later stage, prove the facts necessary to establish personal jurisdiction by a preponderance of the evidence. *Id.*

A district court's exercise of personal jurisdiction over a defendant must satisfy both Minnesota's long-arm statute, Minn. Stat. § 543.19 (2020), and the due-process requirements of the federal constitution. *Trident Enter. Int'l, Inc. v. Kemp & George, Inc.*, 502 N.W.2d 411, 414 (Minn. App. 1993). Minnesota's long-arm statute extends personal jurisdiction as far as the Due Process Clause of the federal constitution allows. *Rilley*, 884 N.W.2d at 327. Thus, if the due-process requirements are met, then the long-arm statute is also satisfied. *Id.* Minnesota courts may apply federal caselaw when determining whether due-process requirements have been satisfied. *Id.*

Due process requires that a district court not exercise personal jurisdiction over a nonresident defendant unless that defendant has "minimum contacts" with the forum state

and the lawsuit "does not offend traditional notions of fair play and substantial justice." *Id.* (quoting *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)). Minimum contacts exist when the defendant "'purposefully avails itself' of the privileges, benefits, and protections of the forum state, such that the defendant 'should reasonably anticipate being haled into court there.'" *Id.* (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474-75 (1985)).

In Minnesota, courts apply a five-factor test to determine whether the exercise of personal jurisdiction over a nonresident defendant is consistent with due process. *Juelich*, 682 N.W.2d at 570. The five factors are (1) the quantity of contacts with Minnesota, (2) the nature and quality of those contacts, (3) the connection of the cause of action with those contacts, (4) Minnesota's interest in providing a forum, and (5) the convenience of the parties. *Id.* The first three factors "determine whether minimum contacts exist," and the final two factors "determine whether the exercise of jurisdiction is reasonable according to traditional notions of fair play and substantial justice." *Id.* The first three factors are the "primary factors," with the last two "deserving lesser consideration." *Dent-Air, Inc. v. Beech Mountain Air Serv., Inc.*, 332 N.W.2d 904, 907 (Minn. 1983).

We begin with the first factor. Appellants argue that the quantity of contacts with Minnesota is insufficient because the allegedly fraudulent transaction was between Arizona residents and Arizona entities, the transaction was negotiated and signed in Arizona, none of the parties stepped foot in Minnesota as part of the transaction, and the companies do not solicit business in Minnesota. They contend that ownership of the Minnesota farmland is not enough. The estate, in turn, argues that appellants' asserted ownership of the Minnesota farmland and the stock in a Minnesota cooperative and their real-property

filings in Polk County constitute sufficient contacts to make a prima facie showing of the existence of personal jurisdiction.

Based on the allegations, the appellants did not have a large quantity of contacts with Minnesota. But, "[w]hen the quantity of contacts is minimal, . . . the nature and quality of the contacts with a state are dispositive." *Trident Enter. Int'l, Inc.*, 502 N.W.2d at 415. Here, the alleged nature and quality of the contacts, the second factor, support a prima facie showing of personal jurisdiction. Critically, Vesper Properties claims to own real property in Minnesota. The Minnesota long-arm statute explicitly allows personal jurisdiction when a nonresident individual or entity "owns, uses, or possesses any real or personal property situated in this state." Minn. Stat. § 543.19, subd. 1(1). Though the presence of property in Minnesota alone is not enough to satisfy due process, the "presence of the defendant's property in [Minnesota] might suggest the existence of other ties among the defendant, [here, Minnesota], and the litigation." *Shaffer v. Heitner*, 433 U.S. 186, 209 (1977).

Further, "when claims to the property itself are the source of the underlying controversy," the United States Supreme Court has concluded that "it would be unusual for the State where the property is located not to have jurisdiction." *Id.* at 207. *Shaffer* also notes that "the defendant's claim to property located in the State would normally indicate that he expected to benefit from the State's protection of his interest" and that jurisdiction would also be supported by the state's "strong interests in assuring the marketability of

property within its borders." *Id.* at 207-08.[2] Here, Vesper Properties claims to own real property in Minnesota worth millions of dollars, and that property is at the heart of this dispute. Vesper Properties' claimed ownership of the farmland is thus a significant alleged contact in Minnesota.

In addition, Vesper Properties allegedly demanded lease payments from Adams Family Farms for the farmland located in Minnesota. And Crane allegedly contacted Gudajtes about money owed related to the ACS stock, stock in a Minnesota cooperative. These actions add to the alleged contacts with Minnesota.

But appellants argue that, based on the allegations, because the entire negotiation and execution of the agreement occurred outside of Minnesota and involved Arizona entities, and because the leases they later negotiated for the farmland involved a North Dakota entity, there were less than the minimum contacts necessary to support a prima facie showing of personal jurisdiction. Appellants rely on *Dent-Air*, where the supreme court concluded that due process was not satisfied when nonresident defendants negotiated lease agreements for airplanes, located outside of Minnesota, with Minnesota plaintiffs. 332 N.W.2d at 906-09. But this case deals with real property in Minnesota, not with movable property outside of Minnesota, as in *Dent-Air*. Thus, *Dent-Air* does not dictate the outcome in this case.

---

[2] *Shaffer* held that a court still needs to have personal jurisdiction over nonresident defendants in a case involving in rem or quasi in rem jurisdiction. 433 U.S. at 196-209. Thus, though *Shaffer* involves in rem or quasi in rem jurisdiction, it still supports the general proposition that a nonresident defendant's property ownership in a state is relevant to an analysis of whether that state has personal jurisdiction over that nonresident defendant.

Appellants also argue that their position is supported by *Hardrives, Inc. v. City of LaCrosse*, 240 N.W.2d 814 (Minn. 1976), a case in which the supreme court determined that minimum contacts existed. In *Hardrives*, the supreme court concluded that contacts with Minnesota were sufficient when nonresident defendants visited Minnesota several times to negotiate construction agreements for work in Wisconsin. 240 N.W.2d at 817-20. Appellants contrast that case with the facts here, where, allegedly, all of the negotiations for the property occurred in Arizona. But *Hardrives* involved leases for construction work in Wisconsin—it did not deal with such a significant contact as the claimed ownership of real property in Minnesota.

Appellants also cite to *Walker Mgmt., Inc. v. FHC Enters., Inc*., where, in concluding that minimum contacts were not present, this court observed that "each and every significant element in the formation of the agreement . . . occurred outside Minnesota." 446 N.W.2d 913, 915 (Minn. App. 1989), *rev. denied* (Minn. Dec. 15, 1989). But we also went on to discuss how the nonresident defendant company, which had been solicited by an out-of-state business to provide marketing services, could not have expected to be haled into court in Minnesota and did not purposefully avail itself of the benefits and protections of Minnesota law. *Id.* at 915-16. Here, based on the allegations, Vesper Properties is the owner of record of Minnesota real property, and Knipe allegedly had documents related to the transaction recorded or caused to be recorded in Minnesota. Thus, based on the allegations, Vesper Properties and Knipe, at least, used Minnesota's laws to protect their interests and should reasonably have anticipated that they could be haled into court in Minnesota.

As to the third factor, the connection between the cause of action and the contacts in Minnesota, there is a clear connection here based on the allegations. The estate brought this action to claim title to Minnesota property. Though the transaction and negotiation occurred in Arizona, the location of the farmland in Minnesota connects the cause of action to the contacts at this early stage of the litigation.

The fourth factor is Minnesota's interest in providing a forum. *Juelich*, 682 N.W.2d at 570. Minnesota has a strong interest here because this case involves Minnesota real property. Minnesota's laws will apply to this property, Minnesota will be entitled to taxes on the property, and Minnesota has a strong interest in the marketability of its land. *See Shaffer*, 433 U.S. at 207-08. And as to the fifth factor, the convenience of the parties, though it is true that the appellants are located in Arizona, through their claimed ownership of, or involvement with, Minnesota land, appellants should have, based on the allegations, anticipated that they could be haled into court in Minnesota.

In sum, we conclude that, based on the five-factor test, the estate alleged sufficient facts to make a prima facie showing of the existence of personal jurisdiction. This prima facie showing, in relation to Vesper Properties, is sufficiently supported by the allegations related to Vesper Properties's negotiations and transaction for Minnesota property, its income from that property, and its claimed ownership of that property. In relation to Knipe, the estate's prima facie showing is sufficiently supported by the allegations because, in addition to allegedly participating in negotiations and a transaction for Minnesota property on behalf of Conneran under a power of attorney, she also allegedly recorded or caused to be recorded the relevant documents in Polk County, thus allowing her, acting as Conneran,

to, allegedly, reap the benefits of the sale of Minnesota property. In relation to Crane, the estate's prima facie showing is sufficiently supported because, based on the allegations, Crane is the owner of Vesper Properties and he took actions seeking payment from Adams Family Farms and Gudajtes in relation to the Minnesota farmland and the shares in ACS. Based on the allegations, Vesper Properties, Knipe, and Crane all "purposefully avail[ed]" themselves of the privileges, benefits, and protections of Minnesota and should have "reasonably anticipate[d] being haled into court" in Minnesota. *Burger King Corp.*, 471 U.S. at 474-75 (quotations omitted).

The estate's prima facie showing of personal jurisdiction over Tax Minimizers under the five-factor test is not as strong as it is for the other defendants, at least at this stage in the litigation. Based on the allegations, Knipe, not Tax Minimizers, was acting as Conneran's power of attorney in entering into the challenged agreement at the heart of this case. But a prima facie showing of personal jurisdiction over Tax Minimizers is further supported by the theory of conspiracy-based jurisdiction.

Conspiracy-based jurisdiction was established in Minnesota by *Hunt v. Nev. State Bank*, 172 N.W.2d 292, 295 (Minn. 1969). Under this doctrine, nonresident defendants who participate in a tortious conspiracy, "the effect of which is felt in [Minnesota]," may have adequate minimum contacts with Minnesota, even if the defendant has never physically been in Minnesota. *Hunt*, 172 N.W.2d at 295. The Minnesota federal district court has described Minnesota's conspiracy-based personal jurisdiction doctrine as requiring a showing by the plaintiff that "(1) a conspiracy existed, (2) the non-resident defendant participated in or joined the conspiracy, and (3) an overt act was taken in

furtherance of the conspiracy within Minnesota's borders." *WinRed, Inc. v. Ellison*, No. 21-1575 (JRT/BRT), 2022 WL 228244, at *3 (D. Minn. Jan. 26, 2022) (citing *Yellow Brick Rd., LLC v. Childs*, 36 F. Supp. 3d 855, 864 (D. Minn. 2014)). A conspiracy exists when two or more people work together to accomplish "an unlawful purpose or a lawful purpose by unlawful means." *Harding v. Ohio Cas. Ins. Co. of Hamilton, Ohio*, 41 N.W.2d 818, 824 (Minn. 1950).

Here, the estate alleges that "Vesper Properties acted at the direction of Crane and in concert with Knipe and Tax Minimizers in connection with the wrongful conduct set out [in the complaint]," that "Knipe, acting in concert with the other Defendants, did not preserve the assets, but wrongfully misappropriated them," that the transaction was procured "by Defendants, acting in concert, in breach of fiduciary and other duties, by undue influence, by fraud, and/or were made by Conneran (or on his behalf through power of attorney) when he lacked capacity to engage in such transactions," that the transactions "are void or voidable due to Defendants' fraud, breach of duty, and undue influence, while acting in concert," and that "Defendants, acting in concert, engaged in fraud and breached their fiduciary and other duties owed to Conneran."

When these allegations are taken as true, *see Rilley*, 884 N.W.2d at 326, Knipe used her personal relationship with Conneran, as well as her professional relationship with him through Tax Minimizers, to fraudulently obtain his power of attorney. Knipe then conspired with Crane and Vesper Properties to fraudulently sell Conneran's property to Vesper Properties through a highly suspect and unfair asset purchase agreement and promissory note. Knipe recorded or caused to be recorded these transactions in Minnesota.

In addition, Tax Minimizers and the management company for Vesper Properties have the same business address. After Vesper Properties acquired its claimed full ownership of the property after Conneran's death, Crane used Vesper Properties' claimed ownership of Minnesota property to acquire rent proceeds from Adams Family Farms and to demand payment owed by Gudajtes to Conneran in relation to the ACS stock.

These allegations are sufficient to assert a prima facie case that there was a conspiracy to unlawfully acquire Conneran's property, that all nonresident appellants joined this conspiracy, and that overt acts were taken in Minnesota by Knipe when she recorded or caused to be recorded the transaction in Minnesota and by Crane when he acquired rent for Minnesota farmland from Adams and demanded payment from Gudajtes. *See Yellow Brick Rd.*, 36 F. Supp. 3d at 864 (allowing personal jurisdiction "over those for whom jurisdiction would otherwise be absent" if the party helps further a conspiracy). Therefore, the estate sufficiently alleged a prima facie showing of conspiracy-based personal jurisdiction. The estate has therefore made a prima facie showing or personal jurisdiction over all four appellants, consistent with due process.

Appellants contend, though, that there is not a prima facie showing of conspiracy-based jurisdiction because, unlike in *Hunt*, the effects of the conspiracy alleged here are not felt in Minnesota since the parties are nonresidents. In *Hunt*, the supreme court found that due process was satisfied when several nonresident defendants conspired at an in-person meeting in Minnesota to unlawfully convert assets of an insurance company, most of whose policyholders were Minnesota residents. 172 N.W.2d at 296. However, actual physical presence in Minnesota is not required once nonresident defendants have entered

into a conspiracy. *Id.* at 295. Further, though none of the parties are Minnesota residents and Adams Family Farms is a North Dakota entity, the effects of the alleged conspiracy would still be felt in Minnesota because the case involves the alleged fraudulent conveyance of Minnesota farmland, land that Minnesota has a substantial interest in and that provides ongoing income, as discussed above. Therefore, *Hunt* does not preclude a prima facie showing of personal jurisdiction in this case.[3]

II. The district court did not abuse its discretion by granting the estate's motion for injunctive relief.

Appellants argue that the district court abused its discretion by granting the estate's motion for a temporary injunction and prejudgment attachment, escrowing the cash rent for the farmland. The district court concluded that the requirements for each of these equitable remedies were met because (1) Town and Country Credit Union will be forced to begin foreclosure action if it is not paid, and (2) Adams Family Farms could be doubly liable for rent if the estate is successful in its suit. The district court also concluded that there was a substantial likelihood that the estate would succeed on the merits because "the transaction appears to have been accomplished by fraud or wrongful conduct."

---

[3] Appellants additionally complain that the district court failed to conduct an individualized, defendant-specific due-process inquiry for each appellant. "When multiple parties are named as defendants, personal jurisdiction must be established for each defendant." *C.H. Robinson Worldwide, Inc. v. FLS Transp., Inc.*, 772 N.W.2d 528, 533 (Minn. App. 2009), *rev. denied* (Minn. Nov. 24, 2009). Here, the district court's order contains one paragraph applying the law of personal jurisdiction to the allegations, but neither Crane nor Tax Minimizers is mentioned in the analysis. But, though there must be a prima facie showing of personal jurisdiction as to each defendant, that prima facie showing is reviewed de novo by appellate courts. Based on our analysis above, the district court was correct in concluding that there was a prima facie showing of personal jurisdiction over all appellants.

We begin with the question of a temporary injunction. "A temporary injunction may be granted if by affidavit, deposition testimony, or oral testimony in court, it appears that sufficient grounds exist therefor." Minn. R. Civ. P. 65.02(b). Further, "the facts on which the trial court acts in granting a temporary injunction are, by the nature of the situation, provisional," and injunctive relief "will continue only until a more scientific analysis of the problem is made possible by trial on the merits." *Dahlberg Brothers, Inc. v. Ford Motor Co.*, 137 N.W.2d 314, 321 (Minn. 1965). Appellate courts review the grant of a temporary injunction for abuse of discretion. *Sanborn Mfg. Co. v. Currie*, 500 N.W.2d 161, 163 (Minn. App. 1993).

The party seeking the injunction must establish that "there is no adequate remedy at law and that denial of the injunction will result in irreparable injury." *Id.* (citing *Cherne Indus., Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 92 (Minn. 1979)). The purpose of the injunction is to "preserve the status quo until a trial can be held on the merits." *Id.* Appellate courts consider five factors when determining whether the district court's grant of a temporary injunction was proper: (1) the relationship of the parties, (2) the relative harm to the requesting party if not granted, (3) the likelihood of the requesting party's success on the merits, (4) any public policy expressed by statute, and (5) the administrative burdens of enforcing the injunction. *Dahlberg*, 137 N.W.2d at 321-22. The third factor is the primary factor. *In re Commitment of Hand*, 878 N.W.2d 503, 509 (Minn. App. 2016), *rev. denied* (Minn. June 21, 2016).

Appellants argue that, under the *Dahlberg* factors, the estate did not carry its burden of proof. First, appellants argue that there is no relationship between the parties. However,

as alleged in the complaint, there is a relationship between the parties because the appellants entered into the challenged agreement with Conneran, and that agreement is at the heart of this case, and it is his estate, not his sister, that is involved in this suit.

Second, appellants argue that there would not be harm to the estate if the injunction were not granted because the damages are not uncertain—they can be calculated to a specific dollar amount. There is some merit to this argument, as reflected in the district court's escrowing of the cash rent. But the district court also discussed the risk of foreclosure, which could lead to much greater, and less quantifiable, consequences. It was not an abuse of discretion for the district court to determine that the risk of foreclosure could lead to irreparable harm, despite the escrowing of the cash rent; the rent alone is not the only value of the farmland and ACS stock.

Third, appellants argue that there is no likelihood of success for the estate because there was no evidence that appellants fraudulently obtained the property besides Conneran-Weig's speculation that the power-of-attorney document did not contain Conneran's authentic signature. But the estate has offered more than just speculation about the signature; the estate has offered documentation about the transaction showing that the agreement was unfavorable to Conneran, and it has offered support for Conneran's declining health and mental state. Because any facts that the district court considered in its determination are "provisional" at this stage of litigation, these facts are sufficient at this early stage for the district court to conclude that a significant likelihood of success exists. *See Dahlberg*, 137 N.W.2d at 321.

Fourth, appellants argue that Minnesota has no public-policy interest in this case. Though the estate has not identified any public policy expressed by statute, this factor is not the most important factor, and the absence of a public-policy interest by statute does not mean that the district court abused its discretion by ordering the funds to be placed in escrow. *See Hand*, 878 N.W.2d at 509.

Fifth, appellants argue that Minnesota would be burdened by holding funds in escrow and by potential duplicative litigation in Arizona. But escrowing funds does not present substantial administrative burdens, and, on the record currently before this court, it is unclear that there actually is duplicative litigation in Arizona or that dual litigation will result in administrative burdens for Minnesota. *See, e.g.*, U.S. Const. art. IV, § 1 (requiring states, through the Full Faith and Credit Clause, to enforce judgments from other states); *see also Matson v. Matson*, 333 N.W.2d 862, 866 (Minn. 1983) (addressing the Full Faith and Credit Clause). Thus, this final factor does not outweigh the other factors.

Given the likelihood of the estate's success on the merits suggested by the district court's admittedly provisional factual determinations, the potential for irreparable injury, and a lack of adequate legal remedy if Town and Country Credit Union forecloses on the farmland, the district court did not abuse its discretion by granting the temporary injunction and placing the relevant funds in escrow.[4]

[4] Appellants additionally argue that injunctive relief is not necessary because there is a forbearance agreement. However, this agreement is not part of the record and instead was included in the appellants' addendum. *See* Minn. R. Civ. App. P. 110.01 (stating that the record on appeal consists of the papers filed in the district court, the exhibits, and the transcript). An appellate court can, sua sponte, strike both extra-record materials submitted to it, and references to extra-record materials in an offending brief. *Brett v. Watts*, 601

Because the escrow of the cash-rent payments was not an abuse of discretion under the law governing temporary injunctions, we do not need to analyze whether the district court erred by also escrowing the funds under a theory of prejudgment attachment.

Affirmed.

N.W.2d 199, 201-02 (Minn. App. 1999), *rev. denied* (Minn. Nov. 17, 1999); *see Merle's Constr. Co. v. Berg*, 442 N.W.2d 300, 303 (Minn. 1989) (striking extra-record materials sua sponte).