

STATE OF VERMONT

SUPERIOR COURT
Addison Unit

CIVIL DIVISION
Docket No. 209-10-19 Ancv

DIAZ & ASSOCIATES, INC.
Plaintiff

v.

VICKI FRENCH
Defendant

DECISION

The above case came before the court for a final hearing on the merits on September 21, 2021 by Webex. Plaintiff's representative, Victor Diaz was present by Webex and Plaintiff was represented by Attorney Tavian Mayer, who also appeared by Webex. Defendant Vicki French represented herself and was present in person in the courtroom.

Based on the credible evidence, the court makes the following findings of facts and conclusions of law.

Findings of Fact

On November 17, 2011, Plaintiff obtained a Judgment against Defendant in the amount of \$16,786.59.

In 2015, Plaintiff filed a Motion for Trustee Process resulting in the freezing of a bank account of Defendant that had approximately \$18,000.00 in it. Ms. French's husband, Ralph French, had a telephone conversation with Plaintiff's attorney Ilerdon Mayer in which they agreed that \$2,000 would be paid to Plaintiff from the account, the balance would be released to Ms. French free of attachment, and the bank would be discharged from any further obligation to put a hold on the account. Mr. French said to Mr. Mayer, "this ends this, right?" and Mr. Mayer agreed. Mr. Mayer was referring to the pending Motion for Trustee Process. There were no agreements made about discharging the debt as a whole, but only the resolution of the frozen bank account.

Mr. Mayer sent Ms. French a prepared Stipulation, which she signed on October 8, 2015 and was notarized (Ex.2). It provides that \$2,000 of the bank funds will go to the Plaintiff's attorney "for credit to the Defendants' account," the balance of funds will be returned to Ms. French, and the Trustee (bank) shall be discharged. It does not say anything about the judgment being paid in full. In fact, it refers to a 'credit to Defendants' account,' indicating an ongoing account.

On December 3, 2015, approximately 2 months later, Atty Mayer's office sent Ms. French a letter asking her to contact the office to discuss the matter. The letter specifically identifies the case name and docket number of the judgment, and specifies that the balance was \$20,261.28.

On December 28, 2015, approximately 3 weeks later, Atty Mayer's office sent Ms. French a second letter asking her to contact the office to discuss the matter. Again, the letter specifically identifies the case name and docket number of the judgment, and specifies that the then-current balance was \$20,340.50.

The letters went to Ms. French's correct address. She did not contact Mr. Mayer's office.

On October 10, 2019, Plaintiff filed the Complaint in this case to renew the prior judgment. The Complaint states that the balance then was \$24,795.89. Ms. French filed an Answer in which she represented that she and her husband were disabled and could not pay, and that she disagreed with the amount due.

At the hearing, Ms. French and her husband both testified that they believed that when the \$2,000.00 was paid, they thought the debt was settled. That may have been their interpretation, but it was a misunderstanding. The facts do not show an agreement to settle the debt in full. The facts actually show the opposite: there is nothing in the stipulation suggesting settlement in full of the claim, and Attorney Mayer followed up shortly after the stipulation with two letters specifying that there was an active account and identifying the amount still owed and seeking ongoing communication about the debt. The letters show that the balance was increasing (due to interest). There was not a reasonable basis for the Frenches to conclude that the debt had been satisfied in full.


Exhibit 8 is an accounting of the debt, showing the \$2,000.00 paid, no other payments, and accrued interest and costs. It shows that as of September 21, 2021, the principal unpaid amount was \$9,728.55, accrued interest was \$17,426.55, and costs of suit were \$381.99. The court finds the accounting credible.

Conclusions of Law

Plaintiff has met its burden to prove the claim and has proved entitlement to judgment in the principal amount of \$9,728.55, \$17,426.55 in accrued interest, and costs of \$381.99 for a total judgment of \$27,537.09 as of September 21, 2021.

Plaintiff's attorney shall prepare a proposed Judgment.

Electronically signed pursuant to V.R.E.F. 9(d) on September 22, 2021 at 8:48 AM.


Mary Miles Teachout
Superior Court Judge