

VERMONT SUPERIOR COURT

Lamoille Unit
154 Main Street
Hyde Park VT 05655
802-888-3887
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 22-CV-03100

Jacoby Donner, P.C. v. Aristone Realty Capital, LLC

ENTRY REGARDING MOTION

Title: Motion for Summary Judgment (Motion: 4)
Filer: William F Grigas
Filed Date: July 11, 2023

The motion is GRANTED.

This is an action to domesticate an existing judgment entered in favor of Plaintiff against Defendant concerning payment of legal fees. Plaintiff Jacoby Donner, P.C., the judgment creditor pursuant to V.R.C.P. 56, has moved for Summary Judgment. Defendant Aristone Realty Capital, LLC, the judgment debtor, did not respond.

In June of 2021, the U.S. District Court for the Eastern District of Pennsylvania entered a consent judgment in favor of Plaintiff against Defendant for a total amount of \$750,000. This judgment was domesticated in New York where it was affirmed. Plaintiff represents that this judgment remains unpaid and has not been satisfied. In order to reach Defendant's assets in Vermont, specifically a property in Stowe, Vermont, Plaintiff has petitioned the court to domesticate the Pennsylvania and New York judgments. The court granted Plaintiff's request and issued a Writ of Attachment on October 10, 2022. While Defendant sent a representative to that hearing, Defendant has not filed a notice of appearance in this matter and has not filed an answer or dispositive motion.

Legal Analysis

Vermont Rule of Civil Procedure 56 governs motions for summary judgment. "The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to as a matter of law." V.R.C.P. 56(a). See *Gross v. Turner*,
Entry Regarding Motion
22-CV-03100 Jacoby Donner, P.C. v. Aristone Realty Capital, LLC

2018 VT 80, ¶ 8; *Gilman v. Maine Mut. Fire Ins. Co.*, 2003 VT 55, ¶ 7. The moving party must support its assertion with numbered paragraphs with references to materials in the record. V.R.C.P. 56(c)(1). The nonmoving party must show that the material facts are in dispute. *Boyd v. State*, 2022 VT 12. The nonmoving party does this through introducing their own admissible evidence. *Gross*, 2018 VT at ¶ 8. Additionally, the court gives the nonmoving party the benefit of reasonable doubts and inferences. *Brousseau v. Brousseau*, 2007 VT 77. If the court determines there are no genuine issues of material fact, the court will grant summary judgment. V.R.C.P. 56.

Here, Plaintiff introduced numbered paragraphs with references to the record. The nonmoving party did not respond.

The Full Faith and Credit Clause of the U.S. Constitution guarantees that “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. . . .” U.S. Const. Art. IV § 1. The court “starts with the presumption that a judgment of a sister state is valid . . .” *Hall v. McCormick*, 154 Vt. 592, 595 (1990). Therefore, the defendant must show the court lacks jurisdiction or that the judgment is defective for the court to not enforce it. *Wursthaus, Inc. v. Cerreta*, 149 Vt. 54, 58 (1987) (“That judgment, therefore, is entitled to full faith and credit in the absence of a showing that that court lacked jurisdiction or acted to deprive defendant of a reasonable opportunity to be heard.”); *Lakeside Equipment Corp. v. Town of Chester*, 173 Vt. 317, 322 (2002) (“If the defendant in the action to domesticate the foreign default judgment ultimately fails to meet its burden of demonstrating that the judgment is jurisdictionally defective, any challenge on the merits of the lawsuit is foreclosed.”).

The court finds that the judgments from both Pennsylvania and New York are valid. Defendant has not introduced any reason to doubt their validity. Because of this, Plaintiff has shown that there is no dispute of material fact in this case. Defendant has not shown that any of the facts Plaintiff asserts are in dispute. The material facts are that the foreign judgments are valid and that Defendant has assets in Vermont, both of which the court finds to be true. Therefore, Plaintiff meets the requirements of V.R.C.P. 56.

ORDER

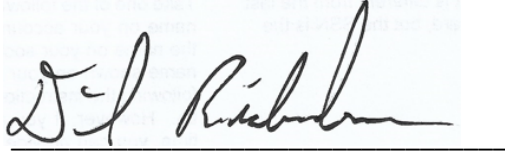
Plaintiff has met the requirements of V.R.C.P. 56 by showing that there is not a dispute of material fact. Defendant did not respond. Plaintiff is entitled to full faith and credit of its out-of-

state judgments that were lawfully issued and granted by the federal district courts of Pennsylvania and New York. Given the location of Defendant's assets in Vermont, Plaintiff is entitled to seek post-judgment rights against these assets based on what has now been recognized as a judgment by this Court.

The motion for Summary Judgment is **GRANTED** as a matter of law.

So Ordered.

Electronically signed on 8/30/2023 4:09 PM pursuant to V.R.E.F. 9(d)

A handwritten signature in black ink, appearing to read "D. Richardson", is written over a light blue rectangular background. The signature is cursive and fluid.

Daniel Richardson
Superior Court Judge