Vermont Superior Court
Filed 03/11/26
Washington Unit

VERMONT SUPERIOR COURT
Washington Unit
65 State Street
Montpelier VT 05602
802-828-2091
www.vermontjudiciary.org

CIVIL DIVISION
Case No. 26-CV-00055

Big Sky Research Bureau Inc v. Sharon Fennimore

ENTRY REGARDING MOTION

Title: Motion to Dismiss (Motion: 2)
Filer: Sharon Fennimore
Filed Date: January 12, 2026

The motion is DENIED.

Defendant Sharon Fennimore seeks to dismiss the present matter, which is a collections case brought by a third-party debt purchaser against her for the balance of a credit card that Plaintiff Big Sky Research Bureau, Inc. contends was hers.

The basis of Ms. Fennimore's motion is the contention that Plaintiff's complaint is facially deficient under Rule 9.1(d). Ms. Fennimore contends that the complaint does not have the necessary "date the plaintiff claims the defendant defaulted and the basis for that default." V.R.C.P. 9.1(d).

Big Sky does not dispute that its complaint does not include a specific date of default, but it notes that the complaint includes the charge off date and that Plaintiff has included verifiable evidence of the date when payment was due and the minimum payment that was required. From these pieces of evidence, the default date is easily inferred. Big Sky further cites to a decision from Judge Teachout, which explains that such a pleading satisfies Plaintiff's burden and Rule 9.1 requirements. This decision states:

> Capital One's failure to expressly set forth the date of default and post-default interest sought is technical only. The date of default may be inferred from the date of the last payment and payment interval. The amount of interest claimed between the default and charge off can be calculated by subtracting the amount due at default from the amount charged off. The rate and specific calculations can be clarified through discovery.
>
> A complaint that does not reflect a good faith attempt at complying with Rule 9.1 or undermines its purpose may warrant dismissal or an amendment, depending on the circumstances. The facts Defendant claims are missing are reasonably inferable from other facts included. They do not affect issues of "standing" or limitations, nor do they cause Mr. Polchies prejudice through failure to sufficiently identify the basis for the claim in the manner required by Rule 9.1. Generally, "the law favors disposition of cases on their merits." *Ying v. Heide*,

2013 VT 81, 5 6, 194 Vt. 546. Here, neither dismissal nor amendment is warranted.

Capital One Bank v. Polchies, Dckt. No. 527-9-17 Wncv (Oct. 30, 2017) (Teachout, J.).

Ms. Fennimore contends that Judge Teachout's decision was wrongly decided, and that the Court should strictly interpret the language of Rule 9.1(d) and dismiss the present complaint due to the omission of this date. To this point, Ms. Fennimore cites to the Vermont Supreme Court's jurisprudence on procedural fairness, uniformity, and regularity. See, e.g., *In re Verizon Wireless Barton Permit*, 2010 VT 62, ¶ 21 (citing *Krulee v. F.C. Huyck & Sons*, 121 Vt. 299, 302, 156 A.2d 74, 76 (1959)).

Rule 9.1 was created with elevated pleading standards to require creditors—whether they were original or third-party debt buyers—to provide "the details of the original transaction and subsequent assignment of debt." V.R.C.P. 9.1, rpt.n. The rule requires "the plaintiff creditor to establish the existence of the debt and ownership of it—or at least that the plaintiff is acting as an agent of one who can establish ownership." Id. It is intended, at least in part, to avoid making defendants "expend significant resources and time on lengthy and difficult discovery to obtain the information and documents" that explain the details of a plaintiff's claim and right to collect." Id.

Against these heightened pleading requirements, however, the Court must begin with the principle that Vermont is a notice pleading state and that the purpose of any pleading is to put the defendant on sufficient notice of the claims. *Bock v. Gold*, 2008 VT 81, ¶ 4 (noting that to survive a motion to dismiss, typically "the threshold a plaintiff must cross in order to meet our notice-pleading standard is exceedingly low."). Pleadings may carry heightened requirements as to detail, but they are not required to banish all doubt or even carry the same standard as a motion for summary judgment. Id. (noting that the motion to dismiss standard presumes all well-pled facts to be true and is only appropriate "when it is beyond doubt that there exist no facts or circumstances . . . that would entitle the plaintiff to relief.") (citing *Union Mut. Fire Ins. Co. v. Joerg*, 2003 VT 27, ¶ 4).

The Court understands that Rule 9.1 elevates what must be shown by a plaintiff creditor and sets out the threshold for a Plaintiff to make. In doing so, the Court understands that the Rule does not proscribe how the information is necessarily presented so long as the complaint provides the information. By including exhibits with the complaint, Plaintiff has, in this case, merged these documents into the complaint and has included, by extension, the date of default in the complaint. *Kaplan v. Morgan Stanley & Co.*, 2009 VT 78, ¶ 10, n.4 (mem.) (noting that when a complaint relies upon a document that document "merges into the pleadings").

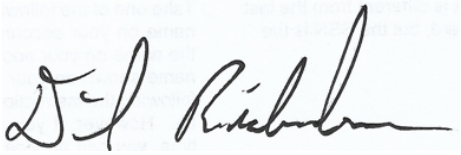
The question then becomes whether Rule 9.1(d) requires a plaintiff to expressly state the date of default in the pleadings when it can be easily found in the exhibits. The Court finds that in light of the low-bar of *Bock* and the limited language of Rule 9.1 that Judge Teachout's reasoning continues to be persuasive and should apply here.[1] For these reasons, the Court finds

[1] In addition, Rule 9.1 expressly allows a trial court to apply the provisions of Rule 9.1 in a flexible manner ("unless otherwise ordered by the court."). V.R.C.P. 9.1. While the Court does not find it necessary to

that Big Sky's pleadings are sufficient for Rule 9.1 and consistent with Judge Teachout's reasoning in *Polchies*, the motion to dismiss is inappropriate at this time.

Therefore, Ms. Fennimore's motion to dismiss is **Denied**. Ms. Fennimore has 21 days from the date of this Order to file an answer. The Court will then set this matter for status conference to address any discovery needs or anticipated motion practice from either side.

Electronically signed on 3/10/2026 11:18 AM pursuant to V.R.E.F. 9(d)



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Daniel Richardson
Superior Court Judge

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invoke this flexible standard, it is further evidence that the intent of Rule 9.1 was not to prevent an otherwise sufficient pleading to be struck on strictly technical grounds but whether the pleadings are sufficient to put a defendant on notice and provide the necessary information to give a defendant notice of the nature of the claims and basis for them. Id. at rpt. n.