

VERMONT SUPERIOR COURT
Windsor Unit
12 The Green
Woodstock VT 05091
802-457-2121
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 23-SC-01658

Capital One, N.A. v. Chelsea Chase

ENTRY REGARDING MOTION

Title: Small Claims Answer Admitted - Installments
Filer: Chelsea Chase
Filed Date: October 16, 2023

In this case, the defendant has answered the complaint by admitting the debt and requesting that judgment be entered for plaintiff. Defendant has also requested that the judgment be enforced through installment payments, as permitted by Vermont Small Claims Procedure Rule 6(e). By making this request, defendant has indicated that they understand the nature of the order and its consequences and have the ability to make the proposed payments.

It is not clear, however, whether defendant has been provided with notice that certain property interests are exempt from collection as a matter of law. In this particular case, the service documents do not indicate whether a list of exemptions was provided, and the answer is not accompanied by a signed disclosure form. For this reason, a list of the exemptions is attached to this order, along with a form for disclosure of exempt income. In order to safeguard against the risk of erroneous deprivation, the court requires that the debtor be provided with notice of the available exemptions before the court reviews a proposed order containing enforcement provisions in the form of court-ordered installment payments. *Vt. R. Civ. P. 69 & Reporter's Notes—1994 Amendment; McCahey v. L.P. Investors*, 774 F.2d 543, 548 (2d Cir. 1985); *Finberg v. Sullivan*, 634 F.2d 50, 56–57 (3d Cir. 1980) (en banc); *Strickland v. Alexander*, 153 F.Supp.3d 1397, 1406–07 (N.D. Ga. 2015).

Here, if the defendant responds to this order within 30 days by completing and submitting the attached disclosure of exempt income, the court will review the disclosure and decide whether to approve the requested installment judgment. If the defendant does not respond within 30 days, the matter will be set for a merits hearing.

Electronically signed on Wednesday, October 18, 2023 pursuant to V.R.E.F. 9(d).

A handwritten signature in black ink, appearing to read "H. Dickson Corbett", is written over a horizontal line.

Vermont Superior Court
Filed 10/19/23
Windsor Unit
H. Dickson Corbett
Superior Court Judge



LIST OF EXEMPTIONS

The following is a list of some of the most common kinds of income and property of a debtor that a court cannot order taken in order to satisfy a judgment. This list contains only the more common exemptions, not a complete list of all potential exemptions. For more information, see 12 V.S.A. § 2740 or contact an attorney.

1. **All Income from any source** is exempt if a debtor has received any benefits in the past 2 months from the Vermont Department for Children and Families (DCF), such as *Reach up*, *General Assistance*, *Supplemental Nutrition Assistance Program (SNAP or Food Stamps)*, *Fuel Assistance* or *Childcare Subsidies*; or from the Department of Vermont Health Access, such as *Medicaid*, *VPharm*, or *Dr. Dynasaur* (12 V.S.A. § 3170).
2. **All Income and all Property** is exempt if it comes from or is "traceable" to:
 - a. **The Social Security Administration** (42 U.S.C. § 407, 42 USC 1383 and 27 VSA 2740(19)).
 - b. **Veteran's Benefits** (38 U.S.C. § 5301).
 - c. **Workers' Compensation Benefits** (21 V.S.A. § 687).
 - d. **Alimony**, support or separate maintenance; (12 V.S.A. § 2740(19D)).
 - e. **Disability or Retirement** pension payments. (12 V.S.A. § 2740(19J)).
 - f. **Other sources** protected under 12 V.S.A. § 2740(19).
3. **All or Part of Wages** may be exempt:
 - a. If weekly wages, before taxes, are less than \$217.50, they are exempt from collection. If weekly wages are more than that, 75% of take home pay is exempt from collection. (12 V.S.A. 3170)
 - b. If the debt is about a credit card or loan, then weekly wages less than \$290 are exempt from collection. If wages are more than that, 85% of take home pay is exempt from collection. (12 V.S.A. 3170)
4. **Insurance or disability** payments are exempt. (8 V.S.A. §§ 3706-3709, 4478; 12 V.S.A. § 3020).
5. **Assets**, the following assets are exempt from attachment or seizure:
 - a. **Cash** up to \$700 in cash or bank deposits (12 V.S.A. § 2740 (15)).
 - b. **Deposits** in bank accounts that receive money from Social Security Administration (31 C.F.R. 212).
 - c. **Primary Home** up to a limit of \$125,000 in value (27 V.S.A. § 101).
 - d. **Motor Vehicle(s)** up to \$2,500 in value (12 V.S.A. § 2740(1)).
 - e. **Professional Tools** and books up to \$5,000 (12 V.S.A. § 2740(2)).
 - f. **Overall Exemption**: If you have not already claimed \$7,000 in exemptions in other categories, then you may claim up to that amount, plus an additional \$400 to protect other property you own. (12 V.S.A. § 2740(7)).
6. **Retirement Assets**
 - a. **Pension Benefits** including various federal pension benefits (29 U.S.C. § 1056(d); 45 U.S.C. § 231(m); 5 U.S.C. § 8346).
 - b. **Retirement Accounts** including payments under annuity policies or plans, and individual tax-deductible retirement accounts, Keogh plans, and Roth IRA's. (12 V.S.A. § 2740 (16)).
7. **All Other Exemptions set forth in Title 12 § 2740.**

STATE OF VERMONT

SUPERIOR COURT **CIVIL DIVISION**

Unit **Case No.** _____

<i>Plaintiff(s)</i>	VS.	<i>Defendant(s)</i>
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DISCLOSURE OF EXEMPT INCOME

(see List of Exemptions at https://www.vermontjudiciary.org/sites/default/files/documents/100-00511_0.pdf)

I certify that the following statement is a true and accurate description of my income

- ☐ I am currently eligible, or was eligible within the last two months, for benefits from:
 - ☐ The Vermont Department for Children and Families (DCF)
 - ☐ The Department of Vermont Health Access (DVHA)

- ☐ My income source(s) include one or more of the following exempt sources:
 - ☐ Social Security Income
 - ☐ Social Security or Social Security Disability
 - ☐ Veteran's Benefits
 - ☐ Unemployment Compensation
 - ☐ Workers' Compensation

- ☐ My reasonable living expenses for myself and my family members living with me are more than my income after taxes. I have completed and attached Financial Disclosure Affidavit showing my income and expenses.

- ☐ My income is otherwise exempt because:

Dated _____

Signature

Printed Name

Street Address: _____ City/State/Zip: _____

Mailing Address (if different from Street Address): _____