

TARGET NATIONAL BANK

v.

GLENN A. BAXTER

Submitted on Briefs November 28, 2012
Decided December 4, 2012

Panel: ALEXANDER, LEVY, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Glenn A. Baxter appeals from a judgment of the Superior Court (Kennebec County, *Mills, J.*) affirming the entry of a default judgment against him in the District Court (Waterville, *Dow, J.*) on Target National Bank's small claims action to recover on a credit card debt. Baxter contends that although he failed to appear for the small claims hearing, his written filing alleging an accord and satisfaction should have caused the court to rule in his favor. We do not reach the merits of appeals from default judgments in civil actions when the party appealing has not first made a timely motion for relief from the default to the court that entered the default judgment pursuant to Maine Rule of Small Claims Procedure 9 or Maine Rule of Civil Procedure 60(b). See *Richter v. Ercolini*, 2010 ME 38, ¶ 11, 994 A.2d 404; *Fleet Mortg. Corp. v. Cobb*, 611 A.2d 565, 566 (Me. 1992). Only after the trial court had acted on a timely motion for relief from a default judgment would an appeal have been proper. See *Fleet Mortg. Corp.*, 611 A.2d at 566.

The entry is:

Appeal dismissed.

On the briefs:

Glenn A. Baxter, appellant pro se

Mary Huynh Thomas, Esq., Law Offices of Howard Lee Schiff, P.C.,
Portland, for appellee Target National Bank

Kennebec County Superior Court docket number AP-11-26
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