

DISCOVER BANK

v.

MARY B. FERNALD

Submitted on Briefs December 8, 2009

Decided December 17, 2009

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD,  
GORMAN, and JABAR, JJ.

## MEMORANDUM OF DECISION

Mary B. Fernald appeals from the judgment of the District Court (Lewiston, *Lawrence, J.*) granting summary judgment to Discover Bank in its action to collect on a credit card debt. Fernald, while not contesting the amount of the debt, asserts that she did not receive sufficient notice of the motion for summary judgment and that she wishes to work out a payment plan with Discover Bank. Because, before filing her appeal, Fernald did not give the trial court the opportunity to determine whether or not she was timely served with a copy of the motion for summary judgment and because, in any event, Fernald has stated that she does not contest the amount of the debt, there are no disputes as to material facts and, as a matter of law, the court's entry of summary judgment must be affirmed. M.R. Civ. P. 56(h)(4). Any request by Fernald to work out a payment plan must be arranged between her and Discover Bank or established in the course of a collection proceeding pursuant to 14 M.R.S. §§ 3120-3136 (2008).<sup>1</sup>

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<sup>1</sup> Title 14 M.R.S. § 3135 has since been amended, in part, by P.L. 2009, ch. 205, §§ 1-2 (effective Sept. 12, 2009).

The entry is:

Judgment affirmed.

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