

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

WILMINGTON TRUST COMPANY)	
)	
Plaintiff,)	
)	
v.)	C.A. NO.07J-08-096
)	
KAITMARIE V. TEAGUE)	
)	
Defendant)	

ORDER

Upon Defendant’s Motion to Reduce Garnishment – DENIED

Defendant asked the court to reduce the garnishment of her wages obtained by Plaintiff. Defendant concedes that the garnishment is within the statutorily prescribed amount, 15%¹. Defendant’s position is that the garnishment leaves her underwater financially. For that reason, the defendant asks the court for relief. Plaintiff counters that the court has no lawful authority to reduce the garnishment, simply because it works a hardship on the debtor.

After oral argument on November 30, 2007, the court considered the matter further. That included Plaintiff’s February 28, 2007 letter and its attachments.

¹ 10 Del. C. § 4913(a).

The court will assume without deciding that Defendant has shown that the garnishment creates a financial hardship for her. Due to the garnishment, Defendant is having difficulty paying her rent and her credit has been impaired. The court further assumes that Defendant is approaching her financial situation and her legal obligations in good faith.

Nevertheless, the court cannot find a legal basis for reducing an otherwise lawful garnishment. The garnishment law does not include a hardship exception.² Nor does it authorize the court to conduct hearings in order to decide the appropriate amount of garnishments, case-by-case.

The court appreciates that Defendant is facing difficult times and she is trying hard. The fact remains, however, Defendant borrowed money from Plaintiff, she fell behind and Plaintiff exercised its legal rights. The court sympathizes with Defendant and it encourages Plaintiff to consider a relaxed payment schedule. It probably will not do anyone any good if Defendant winds up in bankruptcy, but there is nothing the court can do as to the garnishment.

² See, e.g., *In re Kwiecinski*, 245 B.R. 672 (B.A.P. 10th Cir. 2000); *In re Olsen*, 322 B.R. 400 (Bankr. E.D. Wis. 2005); *In the matter of Allen*, 302 B.R. 55 (Bankr. S.D. Ia. 2003); *In re McCabe*, 280 B.R. 841 (Bankr. N.D. Ia. 2002).

For the foregoing reasons, Defendant's Motion to Reduce Garnishment
is **DENIED**.

IT IS SO ORDERED.

Date: March 12, 2008 _____ /s/ Fred S. Silverman
Judge

oc: Prothonotary
pc: Stephen P. Doughty, Esquire
Ms. Kaitmarie Teague