

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

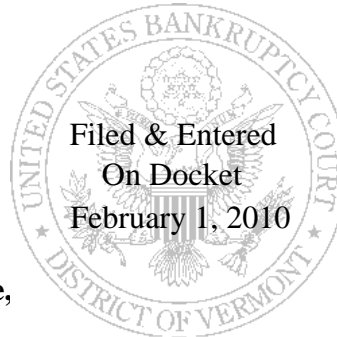
Michael F. Montagne,
Debtor.

Chapter 12 Case
08-10916

Bourdeau Brothers, Inc.,
Plaintiff,

v.

Michael F. Montagne, Diane Montagne,
and Montagne Heifers, Inc.,
Defendants.



Adversary Proceeding
08-1024

Appearances: James Spink, Esq. and Mary Peterson, Esq., for Bourdeau Brothers, Inc.
Lisa Chalidze, Esq., for Diane Montagne

ORDER

GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO STRIKE DIANE MONTAGNE'S AFFIRMATIVE DEFENSES AND DENYING PLAINTIFF'S REQUEST FOR ATTORNEY'S FEES

For the reasons set forth in the memorandum of decision of even date, IT IS HEREBY ORDERED that

1. Bourdeau Brothers, Inc.'s motion to strike Diane Montagne's affirmative defenses of waiver and/or estoppel, unclean hands, and failure to mitigate damages (doc. # 292) is granted.
2. Bourdeau Brothers, Inc.'s motion to strike Diane Montagne's affirmative defense of homestead exemption is denied. Diane Montagne may present proof on this affirmative defense if (i) the Court determines Diane Montagne is liable for the BBI debt, and (ii) BBI seeks to levy on the attachment against property Diane Montagne asserts to be her homestead property.
3. Bourdeau Brothers, Inc.'s request for attorney's fees is denied.

SO ORDERED.

Rutland, Vermont
February 1, 2010

A handwritten signature in black ink, appearing to read "Colleen A. Brown".

Colleen A. Brown
United States Bankruptcy Judge