

STATE OF MAINE
YORK, SS.

SUPERIOR COURT
Civil Action
Docket No. AP-14-036

NICKY LEE M. CROSS,

Plaintiff/ Appellee,

v.

ORDER

HEATHER BOYCE BOUVIER,

Defendant/ Appellant.

Nicky Lee M. Cross brought a small claims action against Heather B. Bouvier to recover monies that she claimed she had loaned Ms. Bouvier and that Ms. Bouvier failed to repay. A final hearing was held in Biddeford District Court on November 4, 2014, after which the court (*Janelle, J.*) issued a judgment in Ms. Cross's favor in the amount of \$736.00 plus \$99.99 in costs. Ms. Bouvier filed a timely appeal to this court. Her appeal essentially challenges the sufficiency of the evidence.

The notice does not request a jury trial de novo. Thus, the court's review of the District Court's decision is limited to questions of law only. *See* M.R.S.C.P. 11(d)(2). Moreover, "[a]ny findings of fact of the District Court shall not be set aside unless clearly erroneous." M.R. Civ. P. 76D.

To determine whether or not the District Court judge acted within his discretion and the judgment is supported by the law, the person appealing the decision is required to produce either a transcript of the proceeding, or, if no electronic recording was made, a statement of the evidence and proceeding settled and approved by the judge who heard the trial. M.R. Civ.P. 76F(a), (c). In this case, the notice of appeal indicates that "[n]o electronic or other recording of the proceedings being available, a statement in

lieu of transcript will be prepared.” However, a statement in lieu of a transcript in accordance with Rule 76F(c) has not been prepared and filed. This court has no basis, therefore, for reviewing the judgment of the District Court. *Manzo v. Reynolds*, 477 A.2d 732, 734 (Me. 1984).

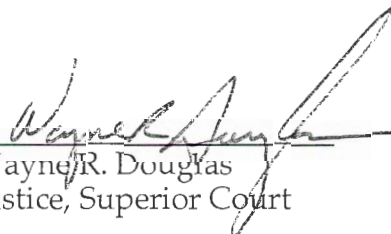
Accordingly, the entry shall be:

Appeal is DENIED. Judgment of the District Court is AFFIRMED.

The clerk may incorporate this order upon the docket by reference pursuant to Rule 79(a) of the Maine Rules of Civil Procedure.

SO ORDERED.

DATE: March 3, 2016


Wayne R. Douglas
Justice, Superior Court