

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

**RC LEASING, LLC,
Plaintiff,**

v.

**Case No. 14-139042-CK
Hon. James M. Alexander**

**VIKING MEDICAL SUPPLY and
LONNIE DORSEY,
Defendants.**

OPINION AND ORDER RE: SUMMARY DISPOSITION

This matter is before the Court on Plaintiff's Motion for Summary Disposition. The Court dispenses with oral argument pursuant to MCR 2.119(E)(3).

According to its Complaint, Plaintiff's predecessor (Cedar Hill) leased certain equipment to Defendant Viking Medical under the terms of written leases dated October 1, 2010 and September 30, 2011. The leases each covered 36 months and required monthly payments of \$1,739.64 and \$1,525.81 respectively. To secure repayment, Defendant Lonnie Dorsey executed Personal Guarantees covering each lease.

Plaintiff claims that Defendants failed to make payments under the leases as of the January 15, 2013 and February 5, 2013 payment due dates and now owe \$20,576.23 under the first lease and \$46,945.79 under the second.¹ Plaintiff seeks a judgment for \$67,522.02, plus contractual attorney fees allowed under the leases in the amount of \$9,873.27.

¹ Under the October 2010 lease, Plaintiff claims Defendants owe \$8,698.20 in principal, \$391.42 in late charges, \$3,986.61 in interest, and \$7,500 payment for equipment depreciation. Under the September 2011 lease, Plaintiff claims Defendants owe \$32,042.41 in principal, \$1,983.54 in late charges, \$6,431.54 in interest, and \$6,488.30 payment for equipment depreciation.

To its end, Plaintiff now moves for summary disposition under MCR 2.116(C)(10), which tests the factual support for Plaintiff's claims. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

In support of its motion, Plaintiff attaches: (1) the October 2010 and September 2011 leases; (2) the Guarantees; (3) the lease assignments to Plaintiff, (4) the Affidavit of Plaintiff's manager, Regina Brodersen, and (5) the Affidavit of Plaintiff's attorney, John Stockdale (re: attorney fees).

Under the Court's October 9, 2014 Order, Defendants were required to file a response brief by November 26, 2014. Defendants, however, failed to file a response or present any evidence contradicting Plaintiff's claims.

The Michigan Court of Appeals has held that:

A party opposing a motion brought under C(10) may not rest upon the mere allegations or denials in that party's pleadings, but must by affidavit, deposition, admission, or other documentary evidence set forth specific facts showing that there is a genuine issue for trial. . . . [W]here the opposing party fails to come forward with evidence, beyond allegations or denials in the pleadings, to establish the existence of a material factual dispute, the motion is properly granted. *McCormic v Auto Club Ins Ass'n*, 202 Mich App 233, 237; 507 NW2d 741 (1993) (internal citations omitted).

As a result, the Court concludes that Defendants fail to present any evidence contradicting Plaintiff's claims, and as a result fail to establish a question of fact regarding Plaintiff's entitlement to judgment as a matter of law. Therefore, the Court shall GRANT Plaintiff's motion for summary disposition under (C)(10) and enter a judgment against Defendants for \$67,522.02, plus \$9,873.27 in contractual attorney fees.

This Order is a Final Order that resolves the last pending claim and closes the case.

IT IS SO ORDERED.

December 12, 2014
Date

/s/ James M. Alexander
Hon. James M. Alexander, Circuit Court Judge