

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

**FIFTH THIRD BANK,
Plaintiff,**

v.

**Case No. 2016-151343-CB
Hon. James M. Alexander**

**J & M REPRODUCTIONS CORPORATION,
A Michigan corporation, and
JOHN M. MILANOWSKI, an individual,
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, in August 2012, Plaintiff extended Defendant J & M Reproductions Corporation (J & M) two lines of credit in the original amount of \$823,000.00. To secure repayment, the individual Defendants subsequently executed guaranties in Plaintiff's favor. On August 24, 2015, Plaintiff notified J & M that it defaulted by failing to timely repay its obligations.

As a result, Plaintiff now seeks \$16,169.58 in principal, \$13,050.78 in interest (as of April 17, 2014), \$16,891.12 in tax costs and attorney fees and costs of \$79,032.69, for a total judgment of \$125,144.17.

To that end, Plaintiff 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). Under (C)(10), "In presenting a motion for summary disposition, the moving party has the

initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists.” *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996), citing *Neubacher v Globe Furniture Rentals*, 205 Mich App 418, 420; 522 NW2d 335 (1994).

In support of its motion, Plaintiff attaches: (1) the original revolving note and term note; (2) the guaranties; (3) the default notice; and (4) the affidavit of James Clemens, Plaintiff’s Relationships Manager, with knowledge of the debt owed by Defendant.

In response to Plaintiff’s motion, Defendants do not contest liability to the principle debt of \$16,169.58 or the interest of \$13,050.78. But Defendants do contest the reasonableness of the attorney fees Plaintiff is attempting to recover.

In support of its response, Defendant includes: (1) Plaintiff’s consolidated attorney billing statement; and (2) the affidavit of Ronald B Rich, Esq., Managing Partner of Ronald B. Rich & Associates, with knowledge of reasonable attorney fees in commercial collection matters.

Because Defendants do not dispute liability on the principal debt and interest, the Court concludes Plaintiff is entitled to a judgment against Defendants for \$46,111.48 (representing the principal debt of \$16,169.58, interest of \$13,050.78, and tax costs of \$16,891.12). But, because Defendants challenge the reasonableness of Plaintiff’s attorney-fee request, the Court finds that Defendant is entitled to a hearing on the same.

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Therefore, the Court GRANTS IN PART Plaintiff's motion for summary disposition under (C)(10) and enters a judgment against Defendants in the amount of \$46,111.48.

A hearing on the reasonableness of Plaintiff's request for attorney fees is set for **Tuesday, November 22, 2016 at 1:30pm.**

IT IS SO ORDERED.

**THIS ORDER CONTAINS A DATE SET BY THE COURT.
YOU WILL NOT RECEIVE FURTHER NOTICE OF THIS DATE**

October 11, 2016
Date

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