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FILED
HURON COUNTY
COMMON PLEAS COURT

2020 MAY 26 P 1: 26

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CLERK OF COURTS

IN THE COMMON PLEAS COURT OF HURON COUNTY, OHIO

JAMES STAVA,)	CASE NO. CVH 20190574
Plaintiff(s))	
vs.)	Judge James W. Conway
)	
GUARDIAN MANUFACTURING CO LLC,)	JUDGMENT ENTRY
Defendant(s))	

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This matter is before the Court on the Parties' Cross Motions for Summary Judgment. The Court, upon review of the pleadings, exhibits, and relevant law finds that there is no genuine issue as to any material fact and that the Plaintiff is entitled to judgment as a matter of law. Further, the Court finds that Defendant's request for leave to file a surreply is not well taken.

The Parties agreed that Defendant borrowed \$200,000 in \$100,000 increments in April and July of 2017 and the original notes were to be paid in November of 2017 and February of 2018 with 8% interest and a \$1,000 fee. The Parties further agreed that Plaintiff and Defendant executed an amendment to both notes on January 28, 2019. The amendment provided interest at 7% going forward and made the due date for both notes January 28, 2019. Subsequently on January 29, 2019, the Parties executed a second amendment to the two notes providing the balance of both notes is now due and payable not later than January 28, 2020.

Plaintiff has alleged that certain default conditions were triggered by Defendant's conduct prior to January 28, 2020 and had pursued this action in July of 2019. The Court finds it is unnecessary to address the default conditions alleged by Plaintiff as the Court finds that the outstanding balance with interest was due on January 28, 2020 and that Defendant has, to this date, failed to pay such amounts.

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Defendant argues that it was entitled to, and did in fact, extend the loan for an additional six (6) months by tendering a 1 (one) point fee. The Court finds that the Defendant was not entitled to the extension of the amended note. The original note specifically says the following: "Principal, fees, and interest shall be payable in one-time payment on or before 15February2018. This loan is extendable, at Guardian's option, six months for an additional 1 (one) point fee, payable at the time." It is undisputed that Guardian did not exercise the option "on or before 15February2018." Instead, the Parties amended the note, superseding the extension language in the original note and providing a final payment "no later than January 28, 2020." Defendant had no right to extend the note beyond that date.

As to the damages, the Court finds that Plaintiff's request is not in conformity with the notes in that Plaintiff seeks interest on the notes compounded daily while the notes explicitly provide for interest calculated on a per annum basis. The Court further finds that the second amendment set 7% as the interest to be paid up to the date of maturity or default and that the 18% rate would apply after such date. Thus, Plaintiff is entitled to 7% interest on the two notes up to and including January 28, 2020 and 18% thereafter. Thus, up to today's date, May 26, 2020, the Plaintiff is entitled to \$251,349.²⁰ This amount will be reduced by the \$2,000 paid by Defendant in its failed attempt to extend the contract.

As to attorney's fees, the Court finds that reasonable attorney's fees incurred by the Defendant after the maturity of the notes on January 2, 2020 would be attributed to the Defendant. The Court finds that \$5,000 of attorney's fees would be reasonable in this case. Thus, the total judgment in favor of the Plaintiff is \$254,249.²⁰ with 18% interest accruing from and after May 26, 2020.

IT IS SO ORDERED. This is a final appealable order and there is no just cause for delay. Costs are to be equally divided between the Parties.



JUDGE JAMES W. CONWAY

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