

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

US BANK NATIONAL ASSN

Plaintiff

NO. 2024-211035-CB

V

HON. VICTORIA A. VALENTINE

ORCHARD LABORATORIES CORP

Defendant

ORDER

**At a session of Court
held in Oakland County, Michigan
on 10/14/2025**

THE COURT FINDS: This matter is before the Court on Plaintiff U.S. Bank National Association’s Motion for Summary Disposition pursuant to MCR 2.116(C)(10). The Court has reviewed the parties’ written submissions and issues this Order without oral argument, in accordance with MCR 2.119(E)(3).

FACTUAL OVERVIEW

Plaintiff, as the assignee of Applied Imaging and Toshiba Financial Services—non-parties to this action that provide printer equipment—moves for summary disposition on eleven separate breach of contract claims, seeking total damages in the amount of \$199,695.53. The claims arise from eleven equipment lease agreements, specifically:

- Nine (9) Value Lease Agreements and one (1) Value Lease Supplement, each entered into between Defendant Orchard Laboratories Corporation (“OL”) and non-party Applied Imaging; and
- One (1) Fair Market Value (“FMV”) Lease Agreement entered into between Defendant OL and non-party Toshiba Financial Services.¹

Plaintiff alleges that all eleven agreements were duly assigned to Plaintiff,² and that Defendant breached the terms of each lease, entitling Plaintiff to judgment as a matter of law.

Pursuant to the terms of each Agreement, Defendant agreed to make specified monthly payments in exchange for the lease of the equipment. Plaintiff alleges that Defendant breached the Agreements by failing to make the required payments in full. Each Agreement further provides that, in the event of default, Defendant is liable for interest at a specified daily rate, as well as for attorney fees and costs.

¹ Plaintiff’s Motion for Summary Disposition, Exhibits 1, 4, 7, 10, 13, 16, 19, 22, 25, 28, and 31.

² Complaint Exhibits 2, 5, 8, 11, 14, 17, 20, 23, 26, 29, and 32; Plaintiff’s Reply Exhibits A2, A5, A8, A11, A14, A17, A20, A23, A26, A29, and A32.

Attached as exhibits to Plaintiff's Complaint and as exhibits to Plaintiff's Reply in support of its Motion for Summary Disposition are "Prayer[s] for Damages Work Sheet[s]," which set forth the amounts allegedly due and owing under each of the eleven lease agreements.³ Also attached thereto are the Assignment of the Leases, purporting to transfer all rights and interests under the Agreements from Applied Imaging and Toshiba Financial Services to Plaintiff.⁴

Plaintiff filed an eleven-count Complaint for breach of contract complaint, alleging Defendant breached each of the Agreements by failing to pay Plaintiff the amounts due and owing in accordance with their terms. Plaintiff now moves for summary disposition, asserting that no genuine issue of material fact exists as to Defendant's default under the eleven Agreements. In support of its Motion, Plaintiff attaches copies of the eleven Lease Agreements at issue. Plaintiff also separately filed the Affidavit of Alainna Rohlik in support of its Motion.

In response, Defendant contends that Plaintiff's Motion is both procedurally and substantively deficient. Specifically, Defendant argues that Plaintiff failed to include many of the exhibits referenced in its Motion; that various affidavits cited in the Motion were not attached; and that Plaintiff has not provided any sufficient documentation to substantiate the monthly charges it claims are due—particularly those amounts that allegedly exceed the charges permitted under the terms of the Agreements. Plaintiff filed a Reply, attaching a complete set of all of the exhibits referenced in Plaintiff's Motion, as well as Exhibit B, which purports to evidence the notices of default sent to Defendant.

STANDARD OF REVIEW

A motion under MCR 2.116(C)(10) tests the factual support for a claim. *Universal Underwriters Group v Allstate Ins Co*, 246 Mich App 713, 720 (2001). The court, in reviewing a motion under MCR 2.116(C)(10), "considers affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties in the light most favorable to the party opposing the motion." *Quinto v Cross and Peters Co*, 451 Mich 358, 362 (1996) (citation omitted). The moving party "must specifically identify the issues" as to which it "believes there is no genuine issue" of material fact and support its position as required by MCR 2.116(G)(3). MCR 2.116(G)(4).

Under Michigan law, the moving party may satisfy its burden of production under MCR 2.116(C)(10) by demonstrating to the court that the non-moving party's evidence is insufficient to establish an essential element of the nonmoving party's claim. *Quinto*, 451 Mich at 361. If the moving party properly supports its motion, the burden "then shifts to the opposing party to establish that a genuine issue of disputed fact exists." *Id.* at 362. If the moving party fails to properly support its motion for summary disposition, the nonmoving party has no duty to respond and the trial court should deny the motion. MCR 2.116(G)(4); see also *Meyer v City of Center Line*, 242 Mich App 560, 575 (concluding that the trial court erred when it granted an improperly supported motion for summary disposition under MCR 2.116(C)(10)). The motion may be granted "if the affidavits or other documentary evidence show that there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law." *Id.*

ANALYSIS

³ Complaint Exhibits 3, 6, 9, 12, 15, 18, 22, 25, 28, 31 and 33; Reply Exhibits A3, A6, A9, A12, A15, A18, A22, A25, A28, A31 and A33.

⁴ Complaint Exhibits 2, 5, 8, 11, 14, 17, 20, 23, 26, 29 and 32; Reply Exhibits A2, A5, A8, A11, A14, A17, A20, A23, A26, A29, and A32.

“A party asserting a breach of contract must establish by a preponderance of the evidence that (1) there was a contract (2) which the other party breached (3) thereby resulting in damages to the party claiming breach.” *Miller-Davis Co v Ahrens Constr, Inc*, 495 Mich 161, 178 (2014). “[T]he damages recoverable for breach of contract are those that arise naturally from the breach or those that were in the contemplation of the parties at the time the contract was made.” *Kewin v Massachusetts Mut Life Ins Co*, 409 Mich 401, 414-415 (1980); *Wright v Genesee Cnty*, 504 Mich 410, 419 (2019)

Defendant is correct that Plaintiff’s Motion references exhibits that were not attached to the Motion itself. However, these exhibits were attached to the Complaint.⁵ And Plaintiff has since attached a complete set of the referenced exhibits to its Reply in support of the Motion. Plaintiff also represents that these materials were produced to Defendant during discovery. Accordingly, Defendant cannot credibly claim surprise or prejudice with respect to the documentation supporting Plaintiff’s Motion.

Further, contrary to Defendant’s assertion, Plaintiff’s Motion references only one affidavit--specifically the Affidavit of Alainna Rohlik—which was, in fact, properly filed. According to that sworn and uncontroverted Affidavit, Plaintiff was assigned the eleven Agreements at issue; the Agreements required Defendant to make specified monthly payments for the leased equipment; Defendant defaulted on its payment obligations owed under each of the eleven Agreements; Plaintiff made repeated demands for payment in accordance with the terms of the Agreements; and as a result, Plaintiff claims:

- contractual damages in the amount of \$145,597.60;
- attorney fees in the amount of \$36,399.40;
- costs in the amount of \$225.98; and
- interest in the amount of \$17,472.55.⁶

Notably, Defendant has not disputed nor submitted any counter affidavit to Alainna Rohlik’s affidavit, nor does Defendant dispute that it entered into the eleven Agreements, defaulted on its obligations under those Agreements, or received notices of default. Based on the record, the Court finds that there is no genuine issue of material fact as to Defendant’s liability under the eleven Agreements at issue.

Defendant next argues that the location of certain leased equipment is unknown. In support, Defendant submits the Affidavit of Matthew Milosek, a former employee, who avers that the location of some of the equipment leased from Applied Imaging [the assignor] is unclear. However, the Court is unsure of the relevance of this assertion—particularly in light of the Assignment provisions contained in the Leases. Each Lease expressly provides that Defendant agreed that the assignee—Plaintiff U.S. Bank-- would not be subject to any claims, defenses, or offsets that Defendant OL have may had against the Assignors--Applied Imaging and Toshiba.⁷

Finally, with respect to the amount of damages, this Court agrees with Defendant’s argument—that the claimed monthly payment amounts do not appear to align the actual monthly contractual rates set forth in the Lease Agreements. As such, while summary disposition is appropriate as to liability, the precise amount of damages remains in genuine dispute and therefore cannot be resolved at this stage. The issue of damages shall proceed consistent with this ruling.

⁵ Complaint, Exhibits 3, 6, 9, 12, 15, 18, 22, 25, 28, 31, and 33.

⁶ See Affidavit, ¶¶ 4.6.8-13, 16, 18, 20-25, 28, 30, 32-37, 40, 42, 44-49, 52, 54, 56-61, 64, 66, 68-73, 76- 78, 80-85, 88, 90, 92-97, 100, 102, 104-109, 112, 114, 116-121, 124, 126, 128-133.

⁷ Plaintiff’s MSD Exhibits 1, 4, 7, 10, 13, 16, 19, 22, 25, and 31, ¶5; and Exhibit 28, ¶19

THEREFORE, THE COURT HEREBY ORDERS: Plaintiff's Motion for Summary Disposition pursuant to MCR 2.116(C)(10), is GRANTED as to liability only.

Dated: 10/14/2025

/s/Victoria A. Valentine

**HON. VICTORIA A. VALENTINE
CIRCUIT COURT JUDGE**