

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

UNITED WHOLESALE MORTGAGE, LLC,

Plaintiff,

Case No. 2022-197481-CB

Hon. Victoria A. Valentine

v.

TERRELL GHOLSTON JR.,

Defendant.

William E. McDonald, III (P76709)

Mahde Y. Abdallah (P80121)

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Pro Se

**OPINION AND ORDER GRANTING UNITED WHOLESALE MORTGAGE, LLC'S MOTION FOR
SUMMARY DISPOSITION**

At a session of said Court held on the
3rd day of March 2023 in the County of
Oakland, State of Michigan

PRESENT: HON. VICTORIA A. VALENTINE

This matter is before the Court on Plaintiff UNITED WHOLESALE MORTGAGE LLC'S ("UWM") motion for summary disposition under MCR 2.116 (C)(10). The Court file reflects that Defendant TERRELL GHOLSTON JR. ("GHOLSTON") did not file a response. The Court, having reviewed the Brief and pleadings, dispenses with oral argument under MCR 2.119(E)(3). For the reasons set forth below, the Court respectfully GRANTS UWM's Motion under MCR 2.116 (C)(10).

FACTS

This matter relates to Defendant Gholston's failure to fully repay a \$40,000.00 loan from Plaintiff UWM.

As a benefit for its employees, UWM created the Forgivable Loan and Restricted Stock Unit Program (the "Program"), under which it provides selected employees "the ability to obtain an interest-bearing forgivable personal loan" in the amount of \$40,000.00.¹ If any employee elects to participate in the Program and obtain the loan, he or she must execute a promissory note relating to the loan.² Under the Program, if the participating employee "remains employed with UWM for three (3) years from [his or her] acceptance of the Program," "UWM will forgive the Loan in its entirety."³ Otherwise, if the participating employee's "employment with UWM ends within three (3) years of entering the Program, [the employee] agrees to fully re-pay to UWM the outstanding balance of" the loan.⁴

Gholston elected to participate in the Program to obtain a \$40,000 loan, and he signed an Acknowledgment of his participation on March 31, 2022.⁵ In the Acknowledgment, Gholston acknowledged that he "received a copy of the Program" and had "read it, understood it, and agree[d] to comply with it."⁶ Gholston also "acknowledge[d] and underst[ood] that as a condition for receiving a forgivable Loan under the Program," he had

¹ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶14 & Exhibit 1: Forgivable Loan and Restricted Stock Unit Program attached to Complaint.

² See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶15.

³ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶16 & Exhibit attached thereto.

⁴ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶17 & Exhibit attached thereto.

⁵ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶18 & Exhibit attached thereto.

⁶ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶19 & Exhibit attached thereto.

to "execute the Promissory Note in the form attached as Appendix A, which evidences [his] obligation to repay any outstanding Loan received under the Program if, within three years of entering the Program, [his] employment with UWM ends (voluntarily or involuntarily)."⁷

On March 31, 2022, Gholston signed the Promissory Note referenced in his Program participation Acknowledgment for the \$40,000 loan.⁸ In the Promissory Note, Gholston agreed that "the entire unpaid balance of the Loan shall become immediately due and payable by [him] without notice or demand if [his] employment with UWM ends (voluntarily or involuntarily, and for any or no reason) before" "three (3) years from the date of execution" of the Promissory Note.⁹ Gholston also agreed in the Promissory Note "to pay all actual expenditures incurred by UWM in collecting any amount due under this Promissory Note, including all costs of legal action and reasonable attorneys' fees."¹⁰

After Gholston signed the Program Acknowledgement and Promissory Note on March 31, 2022, UWM issued a \$40,000 loan check to Gholston.¹¹ Subsequently, Gholston's employment with UWM ended on November 10, 2022-less than 3 years from the date he executed the Program Acknowledgement and Promissory Note.¹² The entire unpaid balance of the loan, plus interest, became immediately due and payable upon the conclusion of his employment.¹³ Yet, Gholston failed to repay the complete balance of the loan.¹⁴ UWM now

⁷ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶10 & Exhibit attached thereto.

⁸ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶11 & Exhibit attached thereto.

⁹ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶12 & Exhibit attached thereto.

¹⁰ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶13 & Exhibit attached thereto.

¹¹ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶14.

¹² See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶15.

¹³ See Plaintiff's MSD Exhibits 1 & 2: Complaint and Answer, ¶17.

¹⁴ See Plaintiff's MSD Exhibit 3: Defendant's Responses to Plaintiff's Request for Admission, Request No. 4.

seeks summary disposition under (C)(10), seeking a judgment against Gholston in amount of \$45,489.72¹⁵, which includes:

Item	Amount
Principal Balance	\$39,134.03
Interest	\$352.87
Costs (includes statutory costs)	\$435.32
Attorneys' Fees	\$5,567.50
Grand Total:	\$45,489.72

As previously indicated, Gholston failed to file a response to his motion.

ANALYSIS

Summary disposition under MCR 2.116(C)(10) may be granted where “[e]xcept as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.” This motion tests the factual sufficiency of the complaint and “must specifically identify the issues as to which the moving party believes there is no genuine issue as to any material fact.” MCR 2.116(G)(4). The moving party bears the initial burden of supporting its position. *Smith v Globe Life Ins Co*, 460 Mich 446, 455 (1999). “Affidavits, depositions, admissions, or other documentary evidence in support of the grounds asserted in the motion are required . . . when judgment is sought based on [MCR 2.116(C)(10)].” MCR 2.116(G)(3)(b).

“The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists. Where the burden of proof at trial on a dispositive issue rest on a nonmoving party, the nonmoving party may not rely on mere allegations or denials in the

¹⁵ See Plaintiff’s MSD Exhibit 6: Affidavit of Plaintiff’s counsel, William E. McDonald III, who attests to the attorney fees and costs incurred.

pleadings, but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists. If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.” *Smith*, 460 Mich at 455 (citations omitted; emphasis added).

If the motion for summary disposition is properly made and supported, an adverse party must, by affidavit or otherwise, “set forth specific facts showing there is a genuine issue for trial.” MCR 2.116(G)(4). If the adverse party fails to respond, and if appropriate, the court shall grant the summary disposition motion. MCR 2.116(G)(4).

Here, the Court file does not reflect that Gholston filed a response to the motion for summary disposition brought under MCR 2.116(C)(10). Consequently, Gholston fails to set forth facts showing that there is a genuine issue for trial.

Further, it is well-settled that “[t]rial courts are not the research assistants of the litigants” and that “the parties have a duty to fully present their legal arguments to the court for its resolution of their dispute.” *Walters v Nadell*, 481 Mich 377, 388 (2008). “A party may not merely announce its position and leave it to this Court to discover and rationalize the basis for [its] claims, or give issues cursory treatment with little or no citation to supporting authority.” *Wolfe v Wayne-Westland Community Schs*, 267 Mich App 130, 139 (2005). *See also Moses, Inc v Southeast Mich Council of Governments*, 270 Mich App 401, 417 (2006) (“If a party fails to adequately brief a position, or support a claim with authority, it is abandoned.”)

UWM argues that there is no genuine issue of material fact that Gholson breached the terms of the promissory note entered as part of UWM’s Forgivable Loan and Restricted

Stock Unity Program (“Program”): he did not remain employed with UWM for the requisite 3 years from the date entered into Program; and he failed to repay the complete balance owed on the interest-bearing forgivable \$40,000 personal loan as required thereunder.

Gholston admits in his answer to UWM’s Request for Admission that he executed the Loan Agreement on March 31, 2022; that his employment with UWM ended on November 10, 2022; that he received \$40,000 from UWM in connection with the Loan; and that he did not repay the complete balance of the loan he received from UWM in connection with the Loan Agreement.¹⁶

The Court finds that after reviewing UWM’s motion, brief and the exhibits attached thereto, summary disposition is appropriate. Gholston fails to refute this evidence and fails to raise a question of fact that he failed to repay the complete balance owed on the interest-bearing forgivable \$40,000 personal loan.

CONCLUSION

IT IS HEREBY ORDERED for the reasons set forth above that UWM’s Motion is GRANTED.

UWM is awarded a judgment against Gholston Jr. in the amount of \$45,489.72:

Item	Amount
Principal Balance	\$39,134.03
Interest	\$352.87
Costs (includes statutory costs)	\$435.32
Attorneys' Fees	\$5,567.50
Grand Total:	\$45,489.72

This is a final order and closes the case.

IT IS SO ORDERED.

¹⁶ See Plaintiff’s MSD Exhibit 3: Defendant’s Responses to Plaintiff’s Request for Admission.

Date: 4/3/2023



/s/Victoria A. Valentine