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Clerk

IN THE CIRCUIT COURT OF SEBASTIAN COUNTY, ARKANSAS  
CIVIL DIVISION V

UNITED FEDERAL CREDIT UNION

PLAINTIFF

v.

CASE NO. 66FCV-20-835

**BOLDING CONSTRUCTION COMPANY, INC.**  
And **MAXIMUS TYRANNUS AVERY, individually.**

DEFENDANTS

**ORDER GRANTING PARTIAL SUMMARY JUDGMENT AND AWARDED**  
**DAMAGES AGAINST DEFENDANTS**

Upon consideration of the Motion for Partial Summary Judgment filed by Plaintiff, United Federal Credit Union, ("Plaintiff") and Brief in Support in Support, the Court hereby GRANTS Plaintiff's motion for partial summary judgment as against Defendants Bolding Construction Company, Inc. and Maximus Tyrannus Avery, individually ("Defendants").

Arkansas Rule of Civil Procedure 56(c)(1) requires a non-movant responding to summary judgment to "serve a response and supporting materials, if any, within 21 days after the motion is served." Once prima facie entitlement to summary judgment is established by the moving party, the "opposing party must meet proof with proof and demonstrate a material issue of fact." *Hardin v. Bishop*, 430 S.W.3d 49, 54 (2013).

A copy of the Motion for Summary Judgment and Brief in Support was sent for service on Defendant's counsel on August 30, 2021 as evidenced by Certificate of Service attached to each pleading. Defendants have failed to file a responsive pleading to the motion for summary judgment or otherwise plead and therefore, Plaintiff's Statement of Undisputed Material Facts is deemed admitted. There are no genuine disputes of material fact regarding: (1) the existence of a valid

M. Collins  
J. Fogleman


promissory note signed by Bolding Construction Company, Inc. and Maximus Tyrannus Avery, individually; (2) Plaintiff loaned Defendants, jointly and severally, the total amount of One Hundred Fifty Thousand Dollars (\$150,000); (3) Defendants, jointly and severally, were required to make regular monthly payments of principal plus interest; (4) As of August 19, 2021, there exists a balance due on the note of \$151,112.00; (5) demand on Bolding Construction Company, Inc. and Maximus Tyrannus Avery, individually, for payment was made and refused; (6) Bolding Construction Company, Inc. and Maximus Tyrannus Avery are in default; (7) Plaintiffs have been damaged as a result of Defendants default; (8) Interest on the principal continues to accrue at a rate of \$15.29 per day; (9) Requests for Admission were filed on May 17, 2021 and served on Defendants; and (10) Defendants failed to respond to the Requests for Admission. The Plaintiffs factual assertions are sufficient to entitle the Plaintiffs to judgment as a matter of law.

It is therefore ORDERED that partial summary judgment be entered in Plaintiff's favor in accordance with Rule 56(c)(2) of the Arkansas Rules of Civil Procedure.

It is FURTHER ORDERED that Petitioner is awarded damages, and that Defendants, Bolding Construction Company, Inc. and Maximus Tyrannus Avery, individually, shall pay, jointly and severally, to Plaintiff the principal of \$151,112.00 and accrued interest at \$15.29 per day from August 19, 2021 until October 7, 2021 in the amount of \$749.21, totaling One Hundred Fifty One Thousand Eight Hundred Sixty-One and 21/100 Dollars (\$151,861.21), post-judgment interest accruing at a rate of 5.25% per annum on the principal, and attorney's fees and costs in the amount of Three Thousand Nine Hundred Seventy-Seven and 33/100 Dollars (\$3,977.33).

DATED: \_\_\_\_\_

10/12/21

  
\_\_\_\_\_  
The Honorable Gunner DeLay  
Circuit Court of Sebastian County

**DISPOSITION SHEET  
STATE OF ARKANSAS  
CIRCUIT COURT: CIVIL**

The civil reporting form and the information contained herein shall not be admissible as evidence in any court proceeding or replace or supplement the filing and service of pleadings, orders, or other papers as required by law or Supreme Court Rule. This form is required pursuant to Administrative Order Number 8. Instructions are available at <https://courts.arkansas.gov>.

VII

Case ID: CV-20-835

United Federal Credit Union v Bolding Construction Co, Inc et al

Trial Type:  (J) Jury Trial     (B) Bench Trial     (N) Non-Trial

Was an interpreter used for this case?  Yes     No

For whom? \_\_\_\_\_

Language:     Spanish     Sign Language     Other: \_\_\_\_\_

Was any party self-represented for any portion of the case?  Yes     No

If so, who? \_\_\_\_\_

Disposition Date: \_\_\_\_\_

**Manner of Disposition (Choose one)**

- (MDCO) Consolidated into case ID: \_\_\_\_\_
- (MDDM) Dismissed
- (MDJD) Judgment/Decree/Order
- (MDAR) Removed to arbitration
- (MDRB) Removed to bankruptcy court
- (MDRF) Removed to other federal court
- (MDTR) Transferred to another circuit court

Was a money judgment entered?     Yes - Amount: \_\_\_\_\_     Joint & Several  
 No

Judgment for	Amount	Judgment against	Amount

CV-20-835