IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

MADISON COUNTY

DYNAMIC FEDERAL CREDIT UNION,	:	CASE NO. CA2025-10-027
Appellee,	:	
vs.	:	OPINION AND JUDGMENT ENTRY 9/14/2026
JORDEN L. MUMAW,	:	
Appellant.	:	
	:	

CIVIL APPEAL FROM MADISON COUNTY COURT OF COMMON PLEAS
Case No. CVH 20250220

Weltman, Weinberg & Reis, Co. L.P.A., and Thomas G. Widman, for appellee.

Jorden L. Mumaw, pro se.

OPINION

HENDRICKSON, J.

{¶ 1} Pro se appellant, Jorden L. Mumaw, appeals from a decision of the Madison County Court of Common Pleas granting summary judgment to appellee, Dynamic Federal Credit Union ("Dynamic"), on Dynamic's claim for money damages owed on an automobile loan. For the reasons set forth below, we affirm the trial court's decision.

{¶ 2} On May 31, 2022, Mumaw executed a Loan and Security Agreement with Dynamic in the amount of $26,632.73 for the purchase of a 2017 Mercedes Benz GLA250. The loan was for 72 months and had an annual interest rate of 7.633 percent. The Mercedes served as collateral for the loan. Pursuant to the terms of the loan agreement, the borrower's failure to "make a payment of the amount required on or before the date it is due" amounted to default in payment. Once in default, Dynamic had the ability to "demand immediate payment of the entire unpaid balance under this Agreement" and the ability to "take possession of the Property" serving as collateral. Pursuant to Section 9 of the security portion of the Agreement

> After We have possession of the Property, We can sell it and apply the money to any amounts You owe Us. We will give You notice of any public disposition or the date after which a private disposition will be held. Our expenses for taking possession of and selling the Property will be deducted from the money received from the sale. Those costs may include the cost of storing the Property, preparing it for sale and attorney's fees to the extent permitted under state law or awarded under the Bankruptcy Code. If You have agreed to pay the Loan, You must pay any amount that remains unpaid after the sale money has been applied to the unpaid balance of the Loan and to what You owe under this Agreement. You agree to pay interest on that amount at the same rate as the Loan until that amount has been paid.

{¶ 3} On August 8, 2025, Dynamic filed a complaint seeking $19,305.40 due under the Loan and Security Agreement, alleging that Mumaw had defaulted under the terms of the Agreement. Attached to its complaint was a copy of the Loan and Security Agreement.

{¶ 4} On August 25, 2025, Mumaw filed an answer in the form of a letter. Mumaw indicated, "I'm in default due to being incarcerated. I've been incarcerated since Feb. of 2024." He further indicated that he had "no means of income except 'State pay,' which I can pay you $5 a month of the $20 I receive." Mumaw did not set forth any defenses to Dynamic's claim for damages.

{¶ 5} On September 16, 2025, Dynamic moved for summary judgment. Dynamic indicated Mumaw was indebted to it in the principal sum of $19,305.40 following his default under the terms of the Loan and Security Agreement. It supported its motion with an affidavit of Danelle Chesser, a representative and keeper of the records for Dynamic; a copy of the Loan and Security Agreement; an April 29, 2024 Notice Letter sent to Mumaw indicating Dynamic's plan to sell the Mercedes by private sale through sealed bids that would be accepted up until noon on May 16, 2024; a $2,000 Record of Bid from the purchaser of the Mercedes; and a May 16, 2024 Notice of Deficiency Letter issued by Dynamic to Mumaw. The Notice of Deficiency Letter stated, in pertinent part, the following:

> As you are aware, your 2017 Mercedes Benz Gla Gla250 [sic] . . . was lawfully repossessed and subsequently sold by Dynamic Federal Credit Union.
>
> 1. The aggregate amount due of obligations secured by the security interest under which the disposition was made is $21,305.40 and the amount reflects the principal balance calculated as of 5/16/2024.
>
> 2. Dynamic Federal Credit Union sold your vehicle for the sale price of $2,000.00.
>
> 3. The aggregate amount of the obligations after deducting the amount of proceeds is $19,305.40.
>
> 4. The amount in aggregate or by type, and types of expenses related to disposition of collateral is itemized below:

Aggregate Balance of Loan	$21,305.40
Interest to [date]	$0
Late Payment Fee(s)	$0
Repossession Fee	$0
Attorney's Fees	$0
Retaking Fee	$0
Storage Fee	$0
Repair Fee	$0

Total	$21,305.40

5. The amount in aggregate or by type, and types of credit owed to obligor:

Rebates of Interest	$0
Credit Service Charge	$0
None	

6. After application of the proceeds of the sale to the total loan balance, you owe a deficiency balance of $19,305.40 to Dynamic Federal Credit Union.

{¶ 6} On October 3, 2025, the trial court granted summary judgment to Dynamic. The court found that "[u]pon the evidence provided, the court finds no genuine issues as to any material fact. Plaintiff is entitled to Summary Judgment as a matter of law." The court entered judgment "in the principal sum of $19,305.40, and costs."

{¶ 7} Four days later, on October 7, 2025, Mumaw filed a memorandum in opposition to summary judgment, in which he disputed the reliability of the evidence of the sale of the Mercedes, contending that the "sale price, sale date, and any other fees associated with the sale" were missing. Mumaw indicated he felt the sale of the vehicle was "abnormally low" and "demand[ed] a bill of sale be submitted." Mumaw did not attach any affidavits or exhibits to his memorandum in opposition.

{¶ 8} On October 21, 2025, the trial court issued an entry in which it found Mumaw's memorandum in opposition to summary judgment moot as the court had already granted judgment to Dynamic.

{¶ 9} Mumaw timely appealed the trial court's decision awarding summary judgment to Dynamic, raising two assignments of error.

{¶ 10} Assignment of Error No. 1:

{¶ 11} THE TRIAL COURT ERRED BY VIOLATING CIVIL RULE 6 AND APPELLANT'S DUE PROCESS BY GRANTING APPELLEE'S MOTION FOR

JUDGMENT ON THE PLEADINGS [SIC] 17 DAYS AFTER IT WAS FILED WITH THE COURT.

{¶ 12} Though Mumaw's assignment of error incorrectly references "judgment on the pleadings," the body of his brief challenges the trial court's decision to grant summary judgment to Dynamic. Mumaw contends the trial court erred in awarding summary judgment to Dynamic prior to the time set forth in Civ.R. 6(C)(1) and (D) for responding to a motion for summary judgment expired. We will address the argument set forth in the body of his brief.

{¶ 13} Civ.R. 6(C)(1) provides that "[r]esponses to motions for summary judgment may be served within twenty-eight days after service of the motion." Civ.R. 6(D) further provides that when a party has a right to respond within a prescribed period after service of a document, three additional days are added to the prescribed period if service was made by mail. Thus, when a motion for summary judgment is served on an opposing party by regular mail, the opposing party has 31 days to respond to the motion. *See Wright-Patt Credit Union v. Nunley*, 2024-Ohio-2340, ¶ 12 (10th Dist.), citing Civ.R. 6(C)(1) and (D).

{¶ 14} Though Dynamic's motion for summary judgment was not filed with the clerk of courts until September 16, 2025, the certificate of service attached to the motion indicates it was served on Mumaw by "ordinary U.S. Mail" on September 4, 2025. Pursuant to Civ.R. 6(C)(1) and (D), Mumaw should have been given 31 days from the date of *service*, or until Monday, October 5, 2025, to file a response to Dynamic's motion for summary judgment.[1] The court rendered its decision on October 3, 2025, only 29 days after it was filed and two days before Mumaw's time to respond expired.

1. The 31st day fell on a Sunday. Pursuant to Civ.R. 6(A), Mumaw should have been given an additional day, until Monday, October 5, 2025, to file his response.

{¶ 15} In general, "a trial court's failure to afford the non-moving party time for a full and fair response before ruling on a summary judgment motion 'implicates [the] procedural due process rights of the nonmoving party and constitutes reversible error'" when raised on appeal. *Nunley* at ¶ 13. However, under certain circumstances, a trial court's premature ruling on a motion may be considered harmless error. *Id.*; *Robinson v. Kokosing Constr. Co., Inc.*, 2006-Ohio-1532, ¶ 15-17 (10th Dist.); *Buckner v. Washington Mut. Bank*, 2014-Ohio-5189, ¶ 50-52 (12th Dist.). "[A]n error is harmless and does not justify reversal of an otherwise valid adjudication where the error does not affect substantial rights of the complaining party, or the court's action is not inconsistent with substantial justice." *Id.* at ¶ 50.

{¶ 16} In *Nunley*, the trial court granted a plaintiff's motion for summary judgment two days before the defendant's time to respond to the motion expired. *Id.* at ¶ 12. While noting that the trial court had erred by prematurely ruling on the motion, the Tenth District nonetheless found the error harmless. *Id.* at ¶ 14. The court noted the defendant "failed to offer any defense, other than a general denial of the allegations of the complaint" for breach of a retail installment contract. *Id.* The court concluded that "the result of the motion for summary judgment would have been the same even if the additional information had been presented to the trial court during the two remaining days provided under the Civil Rules for [defendant] to respond." *Id.* at ¶ 14.

{¶ 17} We similarly find that in the present case, the trial court's premature ruling amounted to harmless error. Mumaw did not deny the allegations set forth in Dynamic's complaint and, in fact, admitted to defaulting on payment of the loan in his answer. He did not present any defenses to Dynamic's breach of contract claim. As discussed more fully in our resolution of Mumaw's second assignment of error, consideration of Mumaw's October 7, 2025 memorandum in opposition to summary judgment, which had been served on Dynamic by U.S. mail on September 25, 2025, does not lead to a different result. Summary judgment in Dynamic's favor was appropriate as the affidavit and evidence submitted by Dynamic demonstrated that no genuine issues of material fact existed and that it was entitled to judgment as a matter of law. Under the circumstances presented in this case, Mumaw was not prejudiced by the trial court's premature ruling on Dynamic's motion for summary judgment.

{¶ 18} Accordingly, as the trial court's actions in prematurely ruling on Dynamic's motion for summary judgment amounted to harmless error, we overrule Mumaw's first assignment of error.

{¶ 19} Assignment of Error No. 2:

{¶ 20} [THE] TRIAL COURT ERRED WHEN IT GRANTED SUMMARY JUDGMENT IN FAVOR OF APPELLEE DESPITE LACK OF PROPER EVIDENCE BY APPELLEE.

{¶ 21} In his second assignment of error, Mumaw argues the trial court erred in awarding summary judgment to Dynamic as Dynamic failed to submit "all the required/necessary evidence to show there [was] not a genuine issue as to any material fact, including the bill of sale of the repossessed property for $2,000." Appellant maintains that the "Bid Offer" exhibit offered by Dynamic "merely constitutes an offer, not a transfer of ownership to the bidder." He argues that the requirements to collect on an "account" were not proven by Dynamic as Dynamic had not shown (1) a beginning balance; (2) listed items, or an item, dated and identifiable by number or otherwise, representing charges, or debits, and credits; or (3) summarization by means of a running or developing balance, or an arrangement of beginning balance and items which permits the calculation of the amount claimed to be due.

{¶ 22} "An appellate court's examination of a trial court's decision to grant summary judgment is subject to de novo review." *French v. New Paris*, 2011-Ohio-1309, ¶ 17 (12th Dist.), citing *Grafton v. Ohio Edison Co*., 1996-Ohio-336, ¶ 10. De novo review means that this court uses the same standard that the trial court should have used and we examine the evidence to determine whether as a matter of law no genuine issues exist for trial. *Morris v. Dobbins Nursing Home*, 2011-Ohio-3014, ¶ 14 (12th Dist.).

{¶ 23} Civ.R. 56 sets forth the summary judgment standard. "Pursuant to that rule, a court may grant summary judgment only when (1) there is no genuine issue of any material fact, (2) the moving party is entitled to judgment as a matter of law, and (3) the evidence submitted can only lead reasonable minds to a conclusion that is adverse to the nonmoving party." *Spitzer v. Frisch's Restaurants, Inc.*, 2021-Ohio-1913, ¶ 6 (12th Dist.), citing *BAC Home Loans Servicing, L.P. v. Kolenich*, 2011-Ohio-3345, ¶ 17 (12th Dist.). "A material fact is one which would affect the outcome of the suit under the applicable substantive law." *Hillstreet Fund III, L.P. v. Bloom*, 2010-Ohio-2961, ¶ 9 (12th Dist.), citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

{¶ 24} The party moving for summary judgment bears the initial burden of demonstrating that no genuine issue of material fact exists. *Touhey v. Ed's Tree & Turf, LLC*, 2011-Ohio-3432, ¶ 7 (12th Dist.), citing *Dresher v. Burt*, 1996-Ohio-107, ¶ 17. Once this burden is met, the nonmoving party "'must then rebut the moving party's evidence with specific facts showing the existence of a genuine triable issue; it may not rest on the mere allegations or denials in its pleadings.'" *Oliphant v. AWP, Inc.*, 2020-Ohio-229, ¶ 31 (12th Dist.), quoting *Deutsche Bank Natl. Trust Co. v. Sexton*, 2010-Ohio-4802, ¶ 7 (12th Dist.). "Summary judgment is proper if the nonmoving party fails to set forth such facts." *Taylor v. Atrium Med. Ctr.*, 2019-Ohio-447, ¶ 10 (12th Dist.). "In determining whether a genuine issue of material fact exists, the evidence must be construed in favor of the nonmoving party." *Id*.

{¶ 25} "Civ.R. 56(C) provides an exclusive list of materials that a trial court may consider when deciding a motion for summary judgment." *State ex rel. Varnau v. Wenninger*, 2011-Ohio-3904, ¶ 7 (12th Dist.), citing *Spier v. American Univ. of the Caribbean*, 3 Ohio App.3d 28, 29 (1st Dist. 1981). Those materials are "pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact." Civ.R. 56(C). "[A] party may properly introduce evidence not specifically authorized by Civ.R. 56(C) by incorporating it by reference through a properly framed affidavit pursuant to Civ.R. 56(E)." *Wilson v. AIG*, 2008-Ohio-5211, ¶ 29 (12th Dist.); *Wenninger* at ¶ 7.

{¶ 26} For purposes of resolving this assignment of error, this court will consider Mumaw's memorandum in opposition to summary judgment. The memorandum in opposition is part of the record on appeal; s*ee* App.R. 9(A); and is properly before us on our de novo review of the trial court's decision to grant summary judgment.

{¶ 27} Contrary to Mumaw's arguments, the cause of action brought by Dynamic was an action for breach of contract, not an action on an account. Dynamic sought judgment for default of payment due under the terms of the Loan and Security Agreement. As such, Mumaw's citation to *Midland Funding, L.L.C. v. Coleman*, 2019-Ohio-432, ¶ 15 (6th Dist.), and his argument pertaining to the elements needed to establish a prima facie case for money owed on an account do not apply.

{¶ 28} To prevail on its claim for breach of contract, Dynamic had to prove (1) the existence of a contract, (2) that it fulfilled its contractual obligations, (3) that Mumaw failed to fulfill his contractual obligations, and (4) due to Mumaw's failure, Dynamic incurred damages. *See W. Environmental Corp. of Ohio v. Hardy Diagnostics*, 2024-Ohio-3051, ¶ 26 (12th Dist.); *Capital Real Estate Partners, L.L.C. v. Nelson*, 2019-Ohio-2381, ¶ 13 (12th Dist.). "'[A] breach of contract occurs when a defendant does not perform one or more of the terms of the contract.'" *Hardy Diagnostics* at ¶ 26, quoting *Innovative Architectural Planners, Inc. v. Ohio Dept. of Admin. Servs.*, 2024-Ohio-824, ¶ 46 (10th Dist.).

{¶ 29} In the present case, Dynamic introduced evidence that in May 2022, Mumaw signed a Loan and Security Agreement for the purchase of a 2017 Mercedes Benz GLA250. Dynamic agreed to loan $26,632.73 to Mumaw, at an interest rate of 7.633 percent per year, with the vehicle servicing as collateral for the loan. Pursuant to the terms of this agreement, Mumaw agreed to make monthly payments to Dynamic in the amount of $463.19 for 71 months, followed by a final payment of $462.57. Payments were due on the 10th of each month. According to Chesser's affidavit, Mumaw defaulted in his monthly payments. Exhibits attached to Dynamic's motion for summary judgment indicate Dynamic took possession of the Mercedes following Mumaw's default and the vehicle was sold by private sale to the highest bidder. The highest bid was for $2,000. The May 16, 2024 Notice of Deficiency Letter sent by Dynamic to Mumaw indicated that Dynamic had not charged any additional fees in taking possession or selling the vehicle. The Notice of Deficiency Letter further indicated that Mumaw was not entitled to any additional rebates or credits. After reducing the amount Mumaw owed under the Loan and Security Agreement ($21,305.40) by the sale price of the vehicle ($2,000), there remained an outstanding balance of $19,305.40.

{¶ 30} "An affidavit stating a loan is in default is sufficient for purposes of Civ.R. 56, in the absence of evidence controverting those averments." *Kemba Fin. Credit Union v. Leeper*, 2026-Ohio-1060, ¶ 14 (10th Dist.), citing *Perpetual Fed. Sav. Bank v. TDS2 Property Mgt., L.L.C.*, 2009-Ohio-6774, ¶ 20 (10th Dist.). Similarly, the Record of Bid, indicating the bidder had submitted a $2,000 cash bid for the vehicle, combined with the Notice of Deficiency Letter, indicating the vehicle had been sold for $2,000, was sufficient Civ.R. 56 evidence that Dynamic had sold the collateral it had repossessed for $2,000.

Through Chesser's affidavit and the exhibits it submitted, Dynamic, as the moving party, met its burden under Civ.R. 56(C) of demonstrating that no genuine issue of material fact existed. The burden then shifted to Mumaw, as the nonmoving party, "to respond with evidence as contemplated in Civ.R. 56(C) to demonstrate that there [was] a genuine issue as to some material fact for trial." *Id.* at ¶ 20. Mumaw failed to meet this burden. He did not submit any exhibits or affidavits contradicting or conflicting with Dynamic's evidence, and Mumaw's unsupported allegations challenging the private sale of the Mercedes are insufficient to meet his reciprocal burden under Civ.R. 56. *Leeper* at ¶ 18.

{¶ 31} Accordingly, having reviewed Dynamic's motion for summary judgment and the evidence attached thereto, as well as Mumaw's memorandum in opposition, we find no error in the trial court's decision to award summary judgment to Dynamic in the amount of $19,305.40. Mumaw's second assignment of error is without merit and is overruled.

{¶ 32} Judgment affirmed.

BYRNE, P.J., and SIEBERT, J., concur.

JUDGMENT ENTRY

The assignments of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, affirmed.

It is further ordered that a mandate be sent to the Madison County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed to appellant.

/s/ Matthew R. Byrne, Presiding Judge

/s/ Robert A. Hendrickson, Judge

/s/ Melena S. Siebert, Judge