



*Farmer, P.J.*

{¶1} On October 17, 2008, appellant, John Soliday Financial Group, LLC, filed a complaint against appellee, Jason Starcher, for money due and owing on a retail installment credit contract for the purchase of an automobile. The contract was entered into on March 22, 2004. The contract called for appellee to pay the principal amount of \$8,998.23 plus interest of 24.95% in weekly installments of \$83.53. Appellee defaulted on the loan on or about October 20, 2007. The vehicle was repossessed and sold, and the proceeds were applied to appellee's balance, leaving an amount due and owing of \$3,310.10.

{¶2} Appellee did not file an answer or otherwise defend. On December 3, 2008, appellant filed a motion for default judgment. By judgment entry filed December 4, 2008, the trial court granted the motion, and awarded appellant as against appellee \$3,310.10 plus accrued interest in the amount of \$1,778.63 through December 1, 2008 and further and future interest at 8% until January 1, 2009 and then 5% thereafter.

{¶3} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error are as follows:

I

{¶4} "THE TRIAL COURT ABUSED ITS DISCRETION BY AWARDING APPELLANT FUTURE INTEREST AT THE STATUTORY RATE RATHER THAN THE RATE OF INTEREST STIPULATED IN WRITING IN THE CONTRACT."

II

{¶5} "THE TRIAL COURT ABUSED ITS DISCRETION BY REDUCING THE RATE OF INTEREST FROM EIGHT PERCENT TO FIVE PERCENT EFFECTIVE JANUARY 1, 2009."

I

{¶6} Appellant claims the trial court erred in setting the interest award at the statutory rate as opposed to the stipulated rate in the contract. We agree.

{¶7} R.C. 1343.03 governs rate of interest on contracts. Subsection (A) states the following:

{¶8} "In cases other than those provided for in sections 1343.01 and 1343.02 of the Revised Code, when money becomes due and payable upon any bond, bill, note, or other instrument of writing, upon any book account, upon any settlement between parties, upon all verbal contracts entered into, and upon all judgments, decrees, and orders of any judicial tribunal for the payment of money arising out of tortious conduct or a contract or other transaction, the creditor is entitled to interest at the rate per annum determined pursuant to section 5703.47 of the Revised Code, unless a written contract provides a different rate of interest in relation to the money that becomes due and payable, in which case the creditor is entitled to interest at the rate provided in that contract. Notification of the interest rate per annum shall be provided pursuant to sections 319.19, 1901.313, 1907.202, 2303.25, and 5703.47 of the Revised Code."

{¶9} Appellant was granted a default judgment as appellee did not contest the amount owed or the terms of the contract, and did not make any claims of violations of any federal or state consumer protection laws. The contract was attached to the

October 17, 2008 complaint pursuant to Civ.R. 10(D)(1). The contract set forth the annual percentage rate in bold-faced type and boxed in at 24.95%. The contract also included the following specific warning in bold-faced type:

{¶10} "Notice to Buyer

{¶11} "(1) Do not sign this agreement before you read it or if it contains any blank spaces. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge.

{¶12} "BY SIGNING BELOW BUYER AGREES TO THE TERMS ON PAGES 1 AND 2 OF THIS CONTRACT AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS CONTRACT."

{¶13} Appellee's signature is contained on the "Buyer" signature line. Under the clear and undisputed terms of the contract, appellee agreed to an annual percentage rate of 24.95%.

{¶14} Upon review, we find the trial court erred in not awarding appellant interest in the amount 24.95% per the terms of the contract.

{¶15} Assignment of Error I is granted.

II

{¶16} Based upon our decision in Assignment of Error I, this assignment is moot.

{¶17} The judgment of the Court of Common Pleas of Richland County, Ohio is hereby reversed and the matter is remanded.

By Farmer, P.J.

Gwin, J. and

Hoffman, J. concur.

s/ Sheila G. Farmer

s/ W. Scott Gwin

s/ William B. Hoffman

JUDGES

SGF/sg 521

