

FILED

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
COUNTY OF DUPLIN 2015 JUL 31 A 9:20 FILE No.: 15 Cvs 202

NATIONAL COLLEGIATE STUDENT COURT, C.S.C.
LOAN TRUST 2004-1,
a Delaware statutory trust,)

Plaintiff,)

v.)

JESSICA L. OSTROWSKI,)

Defendant.)

ORDER GRANTING SUMMARY
JUDGMENT

THIS CAUSE coming on to be heard before the undersigned during the July 6, 2015, Civil Session of Superior Court for Duplin County on Plaintiff's Motion for Summary Judgment and the response filed thereto by Defendant and it thus appears as follows:

1. That Plaintiff filed its complaint on March 27, 2015, asserting a claim for money owed based on a breach of a promissory note.
2. That Defendant filed an answer asserting the statute of limitations as a defense to Plaintiff's claim.
3. That based on an Affidavit attached to Plaintiff's Complaint, the Plaintiff's affiant asserted the date of last payment on this obligation was March 22, 2012, and that only the signature page of the promissory note was attached to the Affidavit.

4. That such date was more than three years prior to the institution of the above-captioned action.

5. That Defendant filed an affidavit also asserting that Plaintiff's claim arose more than three years prior to the institution of this action.

6. That the applicable statute of limitations is three years as set forth under N.C. Gen. Stat. § 1-52(1).

7. That under Baum v. John R. Poore Builders, Inc., 183 N.C. App. 75, 80, 643 S.E.2d 607, 610 (2007), once the statute of limitations is raised, the burden of proof shifts to the plaintiff to establish that the claim is timely filed and that Plaintiff herein has not established that such action was timely filed.

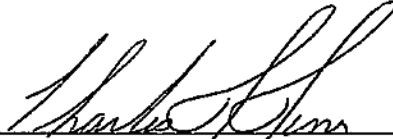
8. That under Rule 56(c), judgment may be entered in favor of the nonmovant even where the nonmovant has not requested it as long as the nonmovant is entitled to judgment as a matter of law. N.C. Gen. Stat. § 1A-1, Rule 56(c) (2014).

9. That the pleadings and affidavits on file show that there is no genuine issue of material fact and that judgment may be entered as a matter of law under Rule 56(c) of the North Carolina Rules of Civil Procedure.

THEREFORE, it is hereby **ORDERED, ADJUDGED and DECREED** as follows:

1. That summary judgment is hereby entered in favor of Defendant because Plaintiff's claim is barred by the statute of limitations.

This the ___ day of July, 2015.



Honorable Charles H. Henry
SUPERIOR COURT JUDGE PRESIDING