

STATE OF MICHIGAN
COURT OF APPEALS

PARTY STORE ENTERPRISES, INC.,

Plaintiff-Appellant,

v

MAZIN JABERO,

Defendant-Appellee.

UNPUBLISHED
October 10, 1997

No. 196489
Genesee Circuit Court
LC No. 96-044069 CK

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals by right summary disposition in favor of defendant, the circuit court having effectively ruled that the promissory note between the parties, calling for an 8% interest rate, is usurious. Plaintiff relies on the “business entity” exception to the general usury statute, MCL 438.61(1) and (3); MSA 19.15(71)(1) and (3). This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant is a natural person. As such, where as here defendant has received “an extension of credit” from plaintiff, and plaintiff is not a “state or nationally chartered bank, insurance carrier, or finance subsidiary of a manufacturing corporation,” in order for an interest rate greater than 7% to be valid, defendant must have furnished to plaintiff “a sworn statement in writing specifying the type of business and business purpose for which the proceeds of the loan or other extension of credit will be used.” Defendant never furnished any such sworn statement, and accordingly the 8% interest rate is usurious. *Holland v Michigan National Bank*, 166 Mich App 245, 259; 420 NW2d 173 (1988).

Plaintiff’s reliance on authority from other states is unpersuasive, as phraseological differences between the Michigan statute at issue and statutes in other states make such decisions inapposite. The statute here applies not just to loans but to extensions of credit additionally, and there can be no question but that the promissory note signed by defendant represents an extension of credit to him. As the statute creates an exception to the general application of the usury laws, compliance with all its requirements is necessary to invoke its benefits. *Grand Rapids Independent Publishing Co v City of Grand Rapids*, 335 Mich 620; 56 NW2d 403 (1953).

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski