

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**BENJAMIN PAUL SCOTT, JR.**

**CIVIL ACTION**

**VERSUS**

**No. 08-1450**

**T. HENRY PROPERTIES, L.L.C., et al.**

**SECTION I/4**

**ORDER AND REASONS**

Before the Court is a motion for summary judgment, filed on behalf of plaintiff, Benjamin Paul Scott, Jr.<sup>1</sup> Defendant, Daniel Kemp, has not filed an opposition to this motion.<sup>2</sup> For the following reasons the motion is **GRANTED**.

***BACKGROUND***

On March 28, 2008, plaintiff filed this lawsuit in federal court.<sup>3</sup> Plaintiff alleged that the defendants, including Daniel Kemp, had defaulted on a \$250,000.00 promissory note executed by defendants on July 21, 2005. The note included a personal guaranty by Kemp. Interest has been accruing on the note at the rate of 36% per annum since July 26, 2005.

***LAW AND ANALYSIS***

**I. STANDARD OF LAW**

Summary judgment is proper when, after reviewing “the pleadings, the discovery and disclosure materials on file, and any affidavits,” the court determines there is no genuine issue of material fact. Fed. R. Civ. P. 56(c). The party seeking summary judgment always bears the initial responsibility of informing the court of the basis for its motion and identifying those

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<sup>1</sup> R. Doc. No. 42.

<sup>2</sup> On July 31, 2009, the Court ordered any response to a motion for summary judgment be filed no later than August 14, 2009. To date, no response has been filed.

<sup>3</sup> R. Doc. No. 1.


portions of the record that it believes demonstrate the absence of a genuine issue of material fact. A genuine issue of material fact exists when the “evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

## II. DISCUSSION

Kemp admits that he executed the note in favor of plaintiff and he has made no payments on the note.<sup>4</sup> Defendants paid \$60,000.00 in partial satisfaction of the note until the last payment on November 26, 2005. At that time, the unpaid principal on the promissory note was \$226,822.75. Since that date, interest has accrued in the amount of \$6,804.68 per month. Plaintiff’s affidavit authenticates the promissory note and establishes that Kemp owes \$226,822.75 in principal, and \$303,501.00 in interest. Kemp has not disputed any of these facts. Accordingly,

**IT IS ORDERED** that the motion for summary judgment is **GRANTED**. Judgment shall issue in favor of plaintiff, Benjamin Scott, and against defendant, Daniel Kemp, in the amount of \$530,323.75. Scott’s counsel is **ORDERED** to file documents sufficient for this Court to calculate an attorney fee award and costs **no later than Monday, August 31, 2009**.

New Orleans, Louisiana, August 21, 2009.

  
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LANCE M. AFRICK  
UNITED STATES DISTRICT JUDGE

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<sup>4</sup> R. Doc. No. 29, para. 7.