

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2004-CA-000728-MR

JAMES A. SCHAFER

APPELLANT

v. APPEAL FROM BOYD CIRCUIT COURT  
HONORABLE C. DAVID HAGERMAN, JUDGE  
ACTION NO. 03-CI-00765

FORD MOTOR CREDIT COMPANY

APPELLEE

OPINION

AFFIRMING

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BEFORE: DYCHE, KNOPF, AND TACKETT, JUDGES.

DYCHE, JUDGE: James A. Schafer borrowed money from Ford Motor Credit Company's assignor to purchase an automobile. He missed payments and fell behind in his obligation. Ford filed this action to collect the debt; Schafer, *pro se*, defended the action. The trial court found no genuine issue of material fact, and granted Ford a summary judgment. CR 56. We find no error, and affirm.

On April 27, 1998, James A. Schafer completed a transaction with Dutch Miller Lincoln-Mercury of Huntington, WV, in which he traded his 1996 Ford (value \$16,795, amount owed, \$17,370) on a 1997 Mazda. The total amount he financed for the trade was \$23,599.03; with the 17.75% interest he agreed on, he was to make 60 payments of \$596.05, totaling \$35,763.00.

Schafer was unable to meet his obligations under the contract, which had been assigned by Dutch Miller to Ford, and under the terms of the agreement, Ford repossessed the vehicle and conducted a private sale, which brought the net sum of \$4,296.95, leaving Schafer with no vehicle and owing Ford \$19,716.72.

Ford initiated this action to collect that deficiency. Schafer defended the action without the services of an attorney. He answered Requests for Admissions (CR 36) admitting the debt and his default. He failed to answer Interrogatories (CR 33) or produce any evidence supporting his defenses. The trial court granted Ford's motion for summary judgment, and this appeal followed.

Schafer argues that he has raised sufficient questions concerning the amount of the debt, and notice/reasonableness of the sale. Unfortunately for Schafer, he has provided no evidence in support of his claims, and therefore has created no genuine issue of material fact. Ford has produced documentary

and testimonial (by affidavit) evidence supporting its claims. Faced with such a properly supported motion for summary judgment, Schafer was obligated to present "at least some affirmative evidence showing that there is a genuine issue of material fact for trial." Steelvest, Inc. v. Scansteel Service Center, Inc., 807 S.W.2d 476, 482 (Ky. 1991). He did not do so, and the judgment of the Boyd Circuit Court is affirmed.

ALL CONCUR.

APPELLANT PRO SE:

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BRIEF FOR APPELLEE:

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