

Quenten E. Gilliam, Esq. (150032015)

FRIEDMAN VARTOLO LLP

A Limited Liability Partnership formed in the State of New York

1325 Franklin Avenue, Suite 160

Garden City, NY 11530

T: (212) 471-5100

F: (212) 471-5150

Attorneys for Plaintiff

Firm Case No.: 212983-2

-----X

ATHENE ANNUITY AND LIFE COMPANY,

Plaintiff

vs.

SUPERIOR COURT OF NEW JERSEY

CHANCERY DIVISION

PASSAIC COUNTY

DOCKET NO.: F-006997-24

WEKK MANAGEMENT LLC; DAMIEN
RAMIREZ; LOAN FUNDER LLC SERIES 45295;
UNKNOWN OCCUPANTS #1-10 N/K/A MARIA
CRUZ, OCCUPANT,

PROPOSED ORDER

Defendant(s)

-----X

THIS MATTER having been opened to the Court by Friedman Vartolo LLP, the attorneys for Plaintiff in the above-entitled foreclosure action; and for good cause shown,

IT IS on this 11th day of April, 2025, ORDERED as follows:

1. Reconsideration of the Plaintiff's Motion to determine the reasonableness of the default interest rate is granted.
2. Upon reconsideration, the default interest rate of forty-five (45) percent is hereby determined to be reasonable pursuant to N.J. Ct. R. 4:64-2(b).
3. The Office of Foreclosure is hereby directed to permit Plaintiff to calculate interest on the Certification of Amount Due at a default interest rate of forty-five (45) percent per annum.

4. A copy of this Order shall be served by regular mail within seven (7) days after receipt by Plaintiff's counsel upon all defendants who have appeared in this action.

/s/ Frank Covello

HON. FRANK COVELLO P.J.Ch.

UNOPPOSED

Default interest rates in a contract are reviewed in the same context as liquidated damages clauses. See Metlife Cap. Fin. Corp. v. Wash. Ave. Assocs. L.P., 159 N.J. 484, 496 (1999). Default interest rates are assessed because “the actual losses resulting from a commercial loan default are difficult to ascertain.” Mony Life Ins. Co. v. Paramus Parkway Bldg., Ltd., 364 N.J. Super. 92, 103 (App. Div. 2003). Because default interest rates are meant to compensate the lender for the potential costs of administering a defaulted loan, the potential interest rate difference in a loan to replace lost funds, and other damages, default interest provisions are presumed reasonable, especially in commercial contracts between sophisticated parties. Metlife, 159 N.J. at 496, 501. The party challenging the default interest rate bears the burden of proving its unreasonableness. Id. at 496.

In this instance, this court improperly shifted the burden to the plaintiff to establish the reasonableness of a a default interest rate, rather than requiring the defendant to prove its unreasonableness. The motion was unopposed and should have been granted.