

**IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI
AT LIBERTY**

DANITA S. COUCH, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. CV 100-4332
)	
SMC LENDING, INC., et al.,)	Division 3
)	
Defendants.)	

**DEFENDANT GMAC-RESIDENTIAL FUNDING CORPORATION'S
AMENDED ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFFS' EIGHTH AMENDED PETITION**

COMES NOW Defendant, GMAC-Residential Funding Corporation (hereinafter, "RFC"), pursuant to Rule 55.33(a) of the Missouri Rules of Civil Procedure and files this Amended Answer and Affirmative Defenses to the Eighth Amended Petition filed on behalf of Danita S. Couch, Jack T. Chastain, Sr., David R. and Nancy J. Beebe and Shirley D. Morrow (collectively, the "Named Plaintiffs" or "Plaintiffs").

ANSWER

Each paragraph of this Answer constitutes RFC's answer to the same numbered paragraph of the Plaintiffs' Eighth Amended Petition. RFC denies all allegations of Plaintiffs' Eighth Amended Petition, except those specifically admitted in this Answer.

1. Paragraph 1 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 1 of the Eighth Amended Petition and, accordingly, those allegations are denied.

2. Paragraph 2 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 2 of the Eighth Amended Petition and, accordingly, those allegations are denied.

3-6. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraphs 3 through 6 of the Eighth Amended Petition and, accordingly, those allegations are denied.

7-9. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraphs 7 through 9 of the Eighth Amended Petition and, accordingly, those allegations are denied.

10-20. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraphs 10 through 20 of the Eighth Amended Petition and, accordingly, those allegations are denied.

21. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 21 of the Eighth Amended Petition because the allegations are incomplete. The allegations contained in Paragraph 21 of the Eighth Amended Petition are, accordingly, denied, except that RFC admits that it has been previously served with process in this action.

22-51. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraphs 22 through 51 of the Eighth Amended Petition and, accordingly, those allegations are denied.

52. Paragraph 52 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 52 of the Eighth Amended Petition and, accordingly, those allegations are denied, except that RFC admits that it held the Morrow loan.

53. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 53 of the Eighth Amended Petition and, accordingly, those allegations are denied.

54. Paragraph 54 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 54 of the Eighth Amended Petition and, accordingly, those allegations are denied.

55. Paragraph 55 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 55 of the Eighth Amended Petition and, accordingly, those allegations are denied.

56. Paragraph 56 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 56 of the Eighth Amended Petition and, accordingly, those allegations are denied.

57. Paragraph 57 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

58. Paragraph 58 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 58 of the Eighth Amended Petition.

59. Paragraph 59 (and each of its subparts) of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 59 (and each of its subparts) of the Eighth Amended Petition and, accordingly, those allegations are denied.

60. Paragraph 60 (and each of its subparts) of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 60 (and each of its subparts) of the Eighth Amended Petition pertaining to it and is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations pertaining to other defendants and, accordingly, those allegations are denied.

61. Paragraph 61 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 61 of the Eighth Amended Petition.

62. Paragraph 62 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without

knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 62 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

63. Paragraph 63 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

64. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 64 of the Eighth Amended Petition and, accordingly, those allegations are denied.

65. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 65 of the Eighth Amended Petition and, accordingly, those allegations are denied.

66. Paragraph 66 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 66 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

67. Paragraph 67 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 67 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

68. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 68 of the Eighth Amended Petition and, accordingly, those allegations are denied.

69. Paragraph 69 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent a response may be required, RFC denies the allegations contained in Paragraph 69 of the Eighth Amended Petition pertaining to it, and is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations pertaining to other defendants and, accordingly, those allegations are denied.

70. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 70 of the Eighth Amended Petition and, accordingly, those allegations are denied.

71. Paragraph 71 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 71 and, accordingly, those allegations are denied. The

Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

72. Paragraph 72 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 72 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

73. Paragraph 73 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 73 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

74. Paragraph 74 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 74 of the Eighth Amended Petition and, accordingly, those allegations are denied.

75. Paragraph 75 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without

knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 75 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

76. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 76 of the Eighth Amended Petition and, accordingly, those allegations are denied.

77. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 77 of the Eighth Amended Petition and, accordingly, those allegations are denied.

78. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 78 of the Eighth Amended Petition and, accordingly, those allegations are denied.

79. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 79 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, Paragraph 79 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

80. Plaintiffs do not assert any allegations with regard to paragraph 80 of the Eighth Amended Petition.

81. Plaintiffs do not assert any allegations with regard to paragraph 81 of the Eighth Amended Petition.

82. Plaintiffs do not assert any allegations with regard to paragraph 82 of the Eighth Amended Petition.

83. Plaintiffs do not assert any allegations with regard to paragraph 83 of the Eighth Amended Petition.

84. Plaintiffs do not assert any allegations with regard to paragraph 84 of the Eighth Amended Petition.

85. Plaintiffs do not assert any allegations with regard to paragraph 85 of the Eighth Amended Petition.

86. Paragraph 86 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 86 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

87. Paragraph 87 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 87 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak

for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

88. Paragraph 88 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 88 of the Eighth Amended Petition and, accordingly, those allegations are denied.

89. Paragraph 89 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 89 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

90. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 90 of the Eighth Amended Petition and, accordingly, those allegations are denied.

91. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 91 of the Eighth Amended Petition and, accordingly, those allegations are denied.

92. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 92 of the Eighth Amended Petition and, accordingly, those allegations are denied.

93. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 93 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, Paragraph 93 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

94. RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 94 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

95. Paragraph 95 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 95 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

96. Paragraph 96 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the

allegations contained in Paragraph 96 of the Eighth Amended Petition and, accordingly, those allegations are denied.

97. Paragraph 97 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 97 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

98. Paragraph 98 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC, in its capacity as Master Servicer, admits that, at one time, payments were made associated with the loan of Shirley Morrow.

99. Paragraph 99 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 99.

100. Paragraph 100 (and its subparts) of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 100 (and its subparts) of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

101. Paragraph 101 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 101 of the Eighth Amended Petition and, accordingly, those allegations are denied.

102. Paragraph 102 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 102 of the Eighth Amended Petition and, accordingly, those allegations are denied.

103. Paragraph 103 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 103 of the Eighth Amended Petition and, accordingly, those allegations are denied.

104. Paragraph 104 (and its subparts) of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 104 (and its subparts) of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

105. Paragraph 105 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 105 of the Eighth Amended Petition and, accordingly, those allegations are denied.

106. Paragraph 106 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 106 of the Eighth Amended Petition and, accordingly, those allegations are denied.

107. Paragraph 107 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 107 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

108. Paragraph 108 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 108 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak

for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

109. Paragraph 109 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 109 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

110. Paragraph 110 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 110 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

111. Paragraph 111 (and its subparts) of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 111 (and its subparts) of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

112. Paragraph 112 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 112 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

113. Paragraph 113 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 113 of the Eighth Amended Petition and, accordingly, those allegations are denied.

114. Paragraph 114 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 114 of the Eighth Amended Petition and, accordingly, those allegations are denied.

115. Paragraph 115 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 115 of the Eighth Amended Petition and, accordingly, those allegations are denied.

116. Paragraph 116 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 116 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

117. Paragraph 117 of the Eighth Amended Petition contains conclusions of law to which no response is required. The Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

118. Paragraph 118 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 118 of the Eighth Amended Petition and, accordingly, those allegations are denied.

119. Paragraph 119 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC is without knowledge or information sufficient to form a belief as to the accuracy or veracity of the allegations contained in Paragraph 119 of the Eighth Amended Petition and, accordingly, those allegations are denied. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

120. Paragraph 120 (and its subparts) of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 120 (and its subparts) of the Eighth Amended Petition.

121. Paragraph 121 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 121 of the Eighth Amended Petition.

122. Paragraph 122 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 122 of the Eighth Amended Petition.

123. Paragraph 123 (and its subparts) of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 123 (and its subparts) of the Eighth Amended Petition. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

124. Paragraph 124 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 124 of the Eighth Amended Petition.

125. Paragraph 125 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 125 of the Eighth Amended Petition.

126. Paragraph 126 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 126 of the Eighth Amended Petition.

127. Paragraph 127 of the Eighth Amended Petition contains conclusions of law to which no response is required. To the extent that a response may be required, RFC denies the allegations contained in Paragraph 127 of the Eighth Amended Petition. Further, the Missouri Revised Statutes are written statements that speak for themselves. Accordingly, Plaintiffs' characterization and or partial quotation of those Statutes is denied.

WHEREFORE, having fully answered Plaintiffs' Eighth Amended Petition, Defendant RFC respectfully requests this Court to dismiss Plaintiffs' Eighth Amended Petition with prejudice, and to enter an order in favor of RFC and against the Named Plaintiffs for its attorney's fees and costs incurred herein, and for such other relief as the Court deems just and proper.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Eighth Amended Petition fails to state any claim upon which relief may be granted against RFC.
2. Named Plaintiffs Danita S. Couch, Jack T. Chastain, Sr., David R. Beebe and Nancy J. Beebe lack legal standing to assert any claim against RFC because RFC never held, purchased or was assigned any second mortgage loan made to these individuals by SMC Lending, Inc.
3. RFC did not solicit or make any of the Named Plaintiffs' second mortgage loans. Therefore, RFC did not violate the Missouri Second Mortgage Loan Act.

4. RFC did not act as an agent of SMC Lending, Inc., nor did SMC Lending, Inc. act as an agent of RFC, in connection with the making of the second mortgage loans to the Named Plaintiffs. Accordingly, RFC cannot be held vicariously liable for any alleged violations by SMC Lending, Inc.

5. RFC did not violate the Missouri Second Mortgage Loan Act because it did not make the second mortgage loans at issue, it never held the second mortgage loans made to Named Plaintiffs Danita S. Couch, Jack T. Chastain, Sr., David R. Beebe and Nancy J. Beebe and, in any event, the loans at issue do not violate the Missouri Second Mortgage Loan Act.

6. As a matter of law, Plaintiffs' claims are not cognizable under the Missouri Second Mortgage Loan Act because the Act permits a lender to make a second mortgage loan that complies with other state or federal law.

7. This Court in Clay County is not a proper venue for this lawsuit because Named Plaintiffs Jack T. Chastain, Sr., David R. Beebe, Nancy J. Beebe, and Shirley D. Morrow reside outside of Clay County, their alleged second mortgage loan transactions with SMC Lending, Inc. did not occur in Clay County, Missouri and the Named Plaintiffs make no factual allegations to support venue in this County in connection with any purported claims against RFC.

8. RFC was not involved in any of the alleged wrongful conduct, was not an alleged assignee of any of the loans made to named Plaintiffs Danita S. Couch, Jack T. Chastain, Sr., David R. Beebe and Nancy J. Beebe and has no knowledge of the conduct alleged in Plaintiffs' Eighth Amended Petition. Therefore, RFC has been improperly joined as a defendant and hereby demands its immediate dismissal with prejudice.

9. Named Plaintiffs are inadequate class representatives.

10. To the extent Plaintiffs seek to maintain this action as a class action, Plaintiffs' claims should be dismissed and the putative class should not be certified (or should be decertified) under Missouri Rule 52.08 because Plaintiffs have failed to satisfy the prerequisites of class certification, including but not limited to the requirements of numerosity, commonality, typicality and adequacy of representation.

11. To the extent the Named Plaintiffs or any member of the putative class signed an agreement to arbitrate with SMC Lending, Inc. or any other defendant, Plaintiffs' claims are subject to binding arbitration.

12. To the extent that any of the Named Plaintiffs or any member of the putative class was on actual or constructive notice of the fees at issue when he or she entered into the second mortgage loan at issue and delayed filing his or her claim, some or all of Plaintiffs' claims may be barred by the doctrines of estoppel, waiver or laches.

13. To the extent that any member of the putative class or his or her co-borrower already has previously pursued any claims against SMC Lending, Inc. and such claims have been judicially determined, some or all of such individuals' claims may be barred by the doctrines of collateral estoppel/issue preclusion and/or res judicata/claim preclusion. Such judicial determinations may include, but are not limited to, the orders and judgments of the United States Bankruptcy Court in *In re FirstPlus Financial, Inc.*, Case No. 99-31869-HCA, pending in the Northern District of Texas.

14. Plaintiffs' claims under Missouri law do not apply to assignees, good faith purchasers for value or holders in due course. Moreover, under the common law, assignees do not assume the burdens or obligations of assignors and, particularly, alleged violations of law occurring prior to any alleged assignment. Plaintiffs have admitted that they are not asserting

any claim under federal law and Plaintiffs do not specifically rely upon HOEPA, 12 U.S.C. §1641 (d) (1), in their Eighth Amended Petition to assert any claims or to overcome any holder-in-due-course defense asserted by any of the defendants. As set forth elsewhere herein, RFC did not purchase any of the second mortgage loans made to the Named Plaintiffs Danita S. Couch, Jack T. Chastain, Sr., David R. Beebe and Nancy J. Beebe.

15. As a matter of law, the second mortgage loans at issue may not be rescinded either because the Plaintiffs have failed to tender the outstanding principal balance or because such loans already have been paid off.

16. This Court lacks personal jurisdiction over RFC. Plaintiffs have not sufficiently alleged nor can they prove that RFC is subject to jurisdiction in this action pursuant to the Missouri long-arm statute. Moreover, RFC does not have sufficient minimum contacts with the state of Missouri to allow the Court to exercise personal jurisdiction according to constitutional standards. Accordingly, RFC is not subject to jurisdiction in this action and should be dismissed as a defendant.

17. To the extent that Plaintiffs assert or purport to assert any claims arising from any second mortgage transaction entered into more than three years prior to the joinder and service of RFC, such claims are barred by the statute of limitations applicable to claims under the Missouri Second Mortgage Loan Act because RFC is not a "moneyed corporation."

18. Because RFC did not purchase or hold any second mortgage loan made by SMC Lending, Inc. to the Named Plaintiffs Danita S. Couch, Jack T. Chastain, Sr., David R. Beebe and Nancy J. Beebe, RFC cannot possibly be held liable under any theory of assignee liability on any second mortgage loan made to these Named Plaintiffs.

19. RFC raises any and all defenses afforded under the Second Mortgage Loan Act to any lender, alleged assignee or loan servicer.

20. Some or all of Plaintiffs' claims are barred as to RFC in that RFC did not specifically assume any alleged contractual liabilities.

21. Plaintiffs' claims are barred in whole or in part because of their failure to exercise ordinary and reasonable care. Plaintiffs read, signed and thereby consented to the loan agreements which they allege violated Missouri law. Had Plaintiffs exercised reasonable care, they would or should have recognized the allegedly excessive fees and refused to consent to the payment of such fees.

22. To the extent that Plaintiffs or any member of the putative class accepted the benefits of their second mortgage loans and/or refinanced higher cost consumer debt, Plaintiffs' claims are barred in whole or in part by the doctrine of unjust enrichment.

23. Plaintiffs' claims are barred in whole or in part for failure to mitigate their damages, if any, because once Plaintiffs were notified or they realized that a claim might exist they failed to minimize their alleged losses, if any.

24. Any loss or damage suffered by Plaintiffs was a direct and proximate result of the acts or omissions of others for which RFC is not liable.

25. To the extent that any of the Plaintiffs or any of the members of the putative class have defaulted, renegotiated or paid off their second mortgage loans at issue, Plaintiffs' claims are barred, in whole or in part, by the doctrines of accord and satisfaction, estoppel, ratification and novation.

26. Plaintiffs have failed to join all necessary and indispensable parties required for a full and just adjudication of the claims in this action. To the extent that there are other

purported plaintiffs, including co-borrowers or co-obligors, defendants or other persons who are in any respect responsible for Plaintiffs' alleged damages, then those persons must be joined to ensure a fair and just adjudication without the risk of multiple or inconsistent results.

27. Plaintiffs' claims for punitive damages are barred by the applicable provisions of the Missouri and United States Constitutions. The standards by which RFC's conduct are to be determined as alleged by Plaintiffs are vague and wholly arbitrary and, as such, deny due process in violation of the Fifth and Fourteenth Amendments of the United States Constitution and similar provisions of the Constitution of the State of Missouri. The standards for determining the amount and/or subsequent imposition of punitive damages are vague, supply no notice to RFC of the potential repercussions of its alleged conduct, and are the subject of unbridled discretion of the factfinder, thereby denying due process to RFC. Further, Plaintiffs must prove their claims for punitive damages strictly by clear and convincing evidence.

28. The application of Missouri law to defendant RFC constitutes an unreasonable restraint on interstate commerce in violation of the Commerce Clause of the United States Constitution. The application of Missouri law in this instance would and will place unconstitutional restraints on RFC and other defendants that are engaged in interstate commerce with respect to the market for and transactions involving second mortgages. The Missouri Second Mortgage Loan Act discriminates against interstate commerce and/or unduly burdens interstate commerce such that the Act is violative of the United States Constitution.

29. Plaintiffs' claims constitute a penalty that may not be recovered through a class action. As a matter of law, plaintiffs are not entitled to pursue claims for statutory penalties in an alleged class action.

30. Plaintiffs' claims are barred to the extent that any violation of the Second Mortgage Loan Act was the result of an accidental and bona fide error of computation or was committed in reliance on a written interpretation of the Missouri Division of Finance of the provisions of Mo. Rev. Stat. §§ 408.231 to 408.241.

31. RFC has been improperly joined in this action and reserves its right to seek severance of any claims against RFC.

32. RFC reserves the right to assert additional affirmative defenses as may be revealed during discovery and as justice requires.

WHEREFORE, RFC respectfully requests that this Court enter judgment in favor of RFC and against the Named Plaintiffs for its attorney's fees and costs incurred herein, and for such other relief as the Court deems just and proper.

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CERTIFICATE OF SERVICE

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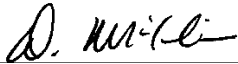
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