

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE**

DAVID C. AND HOLLY E. McLEAN,  
Et al.,

Plaintiffs,

v.

FIRST HORIZON HOME LOAN  
CORPORATION (f/k/a McGUIRE  
MORTGAGE COMPANY),

Defendant.

Case No. 00CV-228530

Division 28

FILED - CIRCUIT COURT  
2007 FEB 21 PM 4:17  
TDT

**PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs, on behalf of the Class, defined below, hereby move this Court for the entry of an Order pursuant to Rule 52.08(e) of the Missouri Rules of Civil Procedure which preliminarily approves the settlement of this class action with Defendant, and which makes the following related orders, set forth below, which are necessary prerequisites under Missouri law<sup>1</sup> and the terms of the Settlement Agreement,<sup>2</sup> for Final Approval of the Settlement.

The matters to be addressed in the Order, and explained below in the accompanying Suggestions, are as follows:

1. Preliminary Certification of a Settlement Class;
2. Preliminary Settlement Approval;
3. Approval of the Notice of Class Action Settlement and Notice Plan;
4. Approval of the Claim Form;

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<sup>1</sup> The Court of Appeals for the Western District, in *State ex rel. Byrd v. Chadwick*, 956 S.W.2d 369 (Mo. App. W.D. 1997), addressed the process for preliminary approval of class action settlements. This motion and the accompanying suggestions follows the analytical framework espoused therein.

<sup>2</sup> The parties' Settlement Agreement is attached hereto as **Exhibit 1**. A Proposed Order granting this Motion is attached as Exhibit D to the Settlement Agreement.

5. Appointment of Settlement Administrator and Approval of Duties of Settlement Administrator;

6. Instructions to Class Members Regarding Such Things as Their Opt-Out and Objection Rights;

7. Scheduling the Fairness Hearing and Related Deadlines; and

8. Miscellaneous Matters.

Plaintiffs further advise the Court that Defendant consents to the relief requested in this motion and the grounds therefore.

WHEREFORE, for these reasons, and the reasons more fully set forth below in the accompanying Suggestions, Plaintiffs respectfully request the Court to certify the settlement class and to appoint Plaintiffs David and Holly McLean and Roger and Eugenia Jones as the Representatives of the Class and R. Frederick Walters, David M. Skeens and Kip D. Richards of Walters, Bender, Strohbehn & Vaughan, P.C. as Class Counsel. Further, Plaintiffs, for reasons set forth in the accompanying Suggestions, request the Court grant preliminary approval of the settlement of this class action as fair, adequate and reasonable and enter its Preliminary Approval Order in the form attached as **Exhibit D** to the Settlement Agreement.

Dated: February \_\_\_\_\_, 2007

Respectfully submitted,

WALTERS BENDER STROHBEHN &  
VAUGHAN, P.C.

By: 

R. Frederick Walters-Mo. Bar 25069

Kip D. Richards - Mo. Bar 39743

David M. Skeens -Mo. Bar 35728

Garrett M. Hodes – Mo. Bar 50221

2500 City Center Square

1100 Main Street

P.O. Box 26188

Kansas City, MO 64196

(816) 421-6620

(816) 421-4747 (Facsimile)

ATTORNEYS FOR PLAINTIFFS AND CLASS  
COUNSEL

**CERTIFICATE OF SERVICE**

The undersigned certifies that the above document was hand-delivered and/or transmitted via fax or email this 21<sup>th</sup> day of February 2007 to:

R. Lawrence Ward  
Mark A. Olthoff  
Shughart Thomson & Kilroy, P.C.  
1700 Twelve Wyandotte Plaza  
120 W. 12<sup>th</sup> Street  
Kansas City, Missouri 64105-1929  
(816) 421-0509 (fax)  
*Attorneys for Defendant*

and a copy sent via email to:

Hon. William F. Mauer  
901 Burning Tree Drive  
Kansas City, MO 64145  
(816) 943-3444 (fax)  
*Special Master*

Richard L. Martin  
Matthew Grundy  
Martin Leigh Laws & Fritzen, P.C.  
1044 Main Street, Suite 400  
Kansas City, MO 64105  
(816) 221-1044 (fax)  
*Attorneys for Defendant*

Thomas M. Hefferon  
Joseph F. Yenouskas  
Goodwin Procter LLP  
901 New York Ave., NW  
Washington DC 20007  
(202) 346-4444 (fax)  
*Attorneys for Defendant*

Eric Calhoun  
1000 Providence Corporation East  
5001 Spring Valley Road  
Dallas, Texas 75244  
(972)-934-47101 (fax)

  
An Attorney for Plaintiffs