IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Eric Greathouse, Ernesto Covarrubias, Tiffany Sumrall, and Barbara Myles, individually and on behalf of all others similarly situated, Plaintiff, v. **Capital Plus Financial, LLC** and **Crossroads Systems, Inc.**, Defendants.	§ § § § § § § § § § § §	Case No. 4:21–cv–1243–BRW

MOTION FOR LEAVE TO FILE REPLY BRIEF

Capital Plus Financial, LLC and Crossroads Systems, Inc., collectively, "Defendants," have moved to dismiss the Amended Class Action Complaint (ECF 31). ECF 44. On May 23, 2022, Plaintiffs filed a response in opposition to the motion to dismiss, which is seventy-five pages in length and provides two declarations. ECF 49.

To assist the Court's ruling on the motion to dismiss, Defendants respectfully request that they be permitted a short reply, no greater than ten pages,[1] limited to addressing the following issues:

1. Plaintiffs' misrepresentations regarding personal jurisdiction over the Defendants, including that:

    a. Greathouse's loan documents contain language stating the loan would ultimately be paid to an Arkansas bank (which it does not);

[1] Defendants disagree with Plaintiffs' response brief as it pertains to the issues of Plaintiffs' ability to demonstrate standing or state a claim. For purposes of their reply, however, Defendants will focus solely on the deficiencies in Plaintiffs' personal jurisdiction arguments.

b. Ms. Giga's Declaration states that Defendants advertised in Arkansas (when it says that they did not and that any communication with Mr. Greathouse was after his loan was approved by the SBA); and

c. SBA's Loan Service Center engages in loan origination and would service unfunded loans (a representation which runs counter to SBA's own website);

2. Plaintiffs' flawed interpretation of *Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.*, 141 S. Ct. 1017 (2021), which has never been applied in a breach-of-contract case and is distinguishable here because Defendants do not have nationwide, physical offices or a product in the stream of commerce;

3. Plaintiffs' misplaced reliance on the recent order in the pending litigation in *Oto Analytics, Inc. v. Cap. Plus Fin., LLC*, Case No. 3:21-cv-02636-B (N.D. Tex.) ("Womply") because the orders on defendants' recent motions to dismiss premise the jurisdictional analysis on the forum in which a defendant does business, not the resident state of the borrowers as Plaintiffs allege;

4. Plaintiffs' misinterpretation of *Bristol Myers v. Superior Ct. of California, San Fransisco City.*, 137 S. Ct. 1773 (2017) because Plaintiffs must show their claims arise out of or relate to Defendants' contacts with the forum; and

5. Plaintiffs' failure to demonstrate that they are entitled to jurisdictional discovery under the relevant test in the Eighth Circuit requiring certain facts to be unknown or undisputed.

A reply on these discrete issues is necessary so that the Court has a full and accurate record before it issues a ruling. Accordingly, Defendants respectfully request that they be granted leave to file a short reply, limited to the discrete issues set forth above, within seven days from the Court's ruling. Pursuant to Local Rule 7.2(d), no brief is required to be filed in support of this request for leave.

Respectfully submitted on May 25, 2022.

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