

4. Welch's claims, fail, in whole or in part, because no privity of contract existed between him and PHL and he was not a third-party beneficiary to Mr. Jackson's loan agreement.

5. Welch's claims fail, in whole or in part, because of waiver, estoppel, ratification, privilege and consent.

6. Welch's claims fail, in whole or in part, to the extent they are moot.

7. Welch's claims fail, in whole or in part, because claim preclusion and/or issue preclusion bar them.

8. Welch's claims fail, in whole or in part, to the extent he lacks standing to bring them.

9. Welch's claims fail, in whole or in part, to the extent they are barred by the economic loss rule and/or a contract between the parties covers the subject matter of the dispute.

10. Welch's claims are barred, in whole or in part, because he failed to mitigate his damages, if any.

11. Welch's claims fail, in whole or in part, because he has unclean hands.

12. Welch's claims are barred, in whole or in part, because he is proportionately responsible for any damages he claims. Should Welch prove any damages, PHL hereby invokes Texas Civil Practice & Remedies Code chapter 33 and requests the trier of fact determine the proportion of responsibility for said damages by Welch, any other party to this suit and any person or entity who may be designated as a responsible third-party, and to grant judgment against PHL, if at all, for only those damages for which PHL is found to be proportionately responsible, if any, and as reduced by all settlement amounts.

13. PHL is entitled to an offset against any damages to be awarded to Welch for, among other things, the amount of the debt, the value of the use and occupation of the subject property,

PHL's attorneys' fees incurred in this suit and amounts plaintiffs recovered pursuant to the settlement of any claims related to this matter.

14. PHL is not liable for punitive damages by application of the due process clause or the excessive fines clause of the United States Constitution, Texas Civil Practice & Remedies Code chapter 41 or any other applicable law.

III. ATTORNEYS' FEES

15. PHL retained the undersigned counsel to represent it against plaintiffs' claims. PHL contends one or more of the claims asserted against it in this litigation is: (1) groundless and brought in bad faith or groundless and brought for the purpose of harassment, in violation of the Texas Rules of Civil Procedure 13, (2) presented for an improper purpose, such as to harass or to cause unnecessary delay and needless increase in the cost of litigation, in violation Texas Civil Practice & Remedies Code § 10.001(1), (3) not warranted by existing law or by a non-frivolous argument for the extension, modification or reversal of existing law or the establishment of new law, in violation of Texas Civil Practice & Remedies Code § 10.001(2), or (4) without evidentiary support or, after a reasonable opportunity for discovery, likely to have evidentiary support, in violation of Texas Civil Practice & Remedies Code § 10.001(3). PHL also seeks to recover its attorneys' fees incurred in this case under any statute, common law rule or contract authorizing the same. This specifically includes any attorneys' fees PHL incurred to defend against declaratory relief plaintiffs seek.

IV. PRAYER

PHL respectfully requests a judgment Welch take nothing on his claims and awarding PHL all further relief to which it is justly entitled.

Date: April 9, 2024

Respectfully submitted,

/s/ C. Charles Townsend

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**ATTORNEYS FOR DEFENDANT
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Unofficial Copy Office of Marilyn R. ... District Clerk

CERTIFICATE OF SERVICE

A true and correct copy of this document was served on April 9, 2024 as follows:

Via Textfile & CMRRR No:

7001 2510 0002 3641 8901

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/s/ C. Charles Townsend

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Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

C. Charles Townsend on behalf of Christopher Townsend

Bar No. 24028053

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Envelope ID: 86438627

Filing Code Description: Answer/ Response / Waiver

Filing Description: Defendant Planet Home Lending's Answer and Affirmative Defenses to Plaintiff Welch's Second Amended Original Petition;

Status as of 4/9/2024 11:02 AM CST

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