Exhibit A

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

AFNI, INC.,	)	
	)	
Plaintiff,	)	Case No. 23SL-AC00070-01
	)	
v.	)	
	)	Division No. 2
Thuy Martinez, et al.,	)	
	)	
Defendants.	)	

ORDER

On January 17, 2025, this matter came before the Court on Defendant/Counterclaimant's ("Martinez's") Motion for Class Certification. After being advised and carefully considering the parties' briefing, exhibits, oral argument, and the record, the Court GRANTS class action certification based on the reasoning below and all other reasons supported by the parties' briefing, exhibits, oral argument, and the record

INTRODUCTION

This is a class action about form notices and uniform business practices, like *State ex rel. Gen. Credit Acceptance Co., LLC v. Vincent*, 570 S.W.3d 42, 47 (Mo. banc 2019) ("*GCAC*"). A central part of Martinez's class action is a determination of whether Counterclaim Defendants[1] violated any statutory provisions governing form UCC notices. Martinez seeks, for herself and the class, the damages provided by the UCC.

CLASS DEFINITION

Martinez seeks class certification for this class:

> All persons who Counterclaim Defendants mailed a presale notice or post-sale explanation.
>
> Excluded from the Class are people against whom State Farm has obtained a final deficiency judgment or who filed for bankruptcy after the date on their presale notice and whose bankruptcy ended in discharge rather than dismissal.

[1] Third-Party Counterclaim Defendants have referred to themselves as "State Farm" and "SFB Defendants." As used in this Order, "State Farm" means Third-Party Counterclaim Defendants EMVLP, LLC, Twenty-One Eighty-Five, LLC, State Farm Bank, F.S.B., and ROE Entities I–X, successors to State Farm Bank, F.S.B. "Counterclaim Defendants" means Afni, Inc. and State Farm.

FACTS FOR CLASS CERTIFICATION

Martinez obtained financing through State Farm Bank for the purchase of a motor vehicle. State Farm allegedly assigned Martinez's consumer credit contract to Afni. After Martinez defaulted, Martinez's vehicle was repossessed, and she was mailed a form presale notice advising her of an intent to dispose of the repossessed vehicle in purported compliance with the UCC. The vehicle was not redeemed, so Counterclaim Defendants sold it and mailed Martinez a form post-sale explanation explaining how the alleged deficiency balance was calculated.

The form UCC notices and explanations mailed to each class member were in the same form of the UCC notices and explanations mailed to Martinez or share at least one of the same alleged defects in the UCC notices and explanations mailed to Martinez.

CONCLUSIONS OF LAW

"Class certification is governed by Rule 52.08." *Hootselle v. Mo. Dep't of Corr.,* 624 S.W.3d 123, 133 (Mo. banc 2021). The Rule 52.08(a) requirements are commonly called "numerosity, commonality, typicality, and adequacy." *Id.* "If these four prerequisites are met, the court will certify a class if plaintiff also shows that the class falls within one of the categories set out in Rule 52.08(b)." *Green v. Weber, Inc*., 254 S.W.3d 874, 877 (Mo. banc 2008).

Rule 52.08(b)(3), the rule under which Martinez seeks certification, "allows a lawsuit to proceed as a class action if the court finds that common questions of law or fact 'predominate over any questions affecting only individual members' [predominance] and that 'a class action is superior to other available methods for the fair and efficient adjudication of the controversy [superiority].'" *Craft v. Philip Morris Cos*., 190 S.W.3d 368, 379 (Mo. App. E.D. 2005).

"A class certification hearing is a procedural matter in which the sole issue is whether plaintiff has met the requirements for a class action." *Meyer ex rel. Coplin v. Fluor Corp.*, 220 S.W.3d 712, 715 (Mo. banc 2007). "The trial court has no authority to conduct even a preliminary inquiry into whether the plaintiff has stated a cause of action or will prevail on the merits." *Wright v. Country Club of St. Albans*, 269 S.W.3d 461, 465 (Mo. App. E.D. 2008). A "a court may not refuse certification on the ground that it thinks the class will eventually lose on the merits." *GCAC*, 570 S.W.3d at 50 n.7.

To determine whether the class action requirements are met, the allegations in Martinez's counterclaim are accepted as true. *Hale v. Wal-Mart Stores, Inc.*, 231 S.W.3d 215, 227 (Mo. App. W.D. 2007). "[A]rguments which tend to negate allegations from the petition should be ignored because such allegations are taken as true for purposes of a class certification motion." *Hope v. Nissan North America, Inc*., 353 S.W.3d 68, 74 (Mo. App. W.D. 2011) (citing *Hale*, 231 S.W.3d at 227). "Therefore, the determination of class certification is based primarily upon the allegations in the petition." *Id.*

"Whether a claim should proceed as a class action 'rests with the sound discretion of the trial court.'" *Hootselle*, 624 S.W.3d at 133 (quoting *GCAC*, 570 S.W.3d at 46). The "underlying question in any class action certification is whether the class action device provides the most efficient and just method to resolve the controversy at hand, all things considered." *GCAC*, 570 S.W.3d at 46–47 (quoting *State ex rel. Coca-Cola Co. v. Nixon*, 249 S.W.3d 855, 860-61 (Mo.

banc 2008)). "In determining whether to certify a proposed class, a court should err in favor of, and not against, allowing maintenance of the class action because class certification is subject to later modification." *Frank v. Enviro-Tech Servs.*, 577 S.W.3d 163, 167 (Mo. App. E.D. 2019); *see also Dale v. DaimlerChrysler Corp.*, 204 S.W.3d 151, 164 (Mo. App. W.D. 2006).

Personal Jurisdiction: Counterclaim Defendants contend this Court lacks personal jurisdiction over them for the claims of class members living outside Missouri. Afni's personal jurisdiction argument has been universally rejected by all the federal courts of appeals. *Mussat v. IQVIA, INC.*, 953 F.3d 441, 447 (7th Cir. 2020) ("the named representatives must be able to demonstrate either general or specific personal jurisdiction, but the unnamed class members are not required to do so."); *Lyngaas v. Curaden Ag*, 992 F.3d 412, 435 (6th Cir. 2021) ("[A] class action is formally one suit."); *Fischer v. Fed. Express Corp.*, 42 F.4th 366, 375 (3d Cir. 2022) ("[I]n a class action, the relevant claim is the claim of the class.")[2]

Further, Afni is the plaintiff. Afni consented or submitted to the Court's exercise of personal jurisdiction by instituting this action. *Mallory v. Norfolk S. Ry. Co.,* 143 S.Ct. 2028, 2039 (2023); *Adam v. Saenger*, 303 U. S. 59, 67–68 (1938); *Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 703 (1982); *Freeman v. Bee Machine Co.*, 319 U.S. 448, 454 (1943) ("He was conducting litigation in Massachusetts. He was there for all purposes of that litigation. Having invoked the jurisdiction of the federal court and submitted to it, he may not claim that he was present only for the limited objectives of his answer and counterclaim. He was present, so to speak, for all phases of the suit."); *Merchs. Heat & Light Co. v. J.B. Clow & Sons*, 204 U.S. 286, 289–90 (1907) (by invoking the jurisdiction of the court through suit, the party has submitted to the court's jurisdiction "and must take the consequences.")

"Courts have consistently held that a court always has personal jurisdiction over a named plaintiff because that party, by choosing the forum, has consented to the personal jurisdiction of that court." *Moore v. Rohm & Haas Co.*, 446 F.3d 643, 645–46 (6th Cir. 2006); *see also McAninch v. Wintermute*, 491 F.3d 759 (8th Cir. 2007) ("A plaintiff consents to personal jurisdiction by virtue of the act of bringing the suit in the given forum.'") This personal jurisdiction is founded upon a party generally appearing before a court by suing. *Lewis v. United Joint Venture*, No. 4:10-MC-00061 (N.D. Ohio Dec. 16, 2010) (citing *Rauch v. Day & Night Mfg. Corp.*, 576 F.2d 697, 700 (6th Cir. 1978) ("In *Pennoyer v. Neff*, the Supreme Court specifically recognized that personal jurisdiction could be founded upon voluntary appearance.") A party who makes a general

[2] Counterclaim Defendants principally rely on an order from Judge Heggie decertifying a nationwide class because he found he did not have personal jurisdiction over a nationwide class. *See AmeriCredit Fin. Servs., Inc. v. Bell*, No. 15SL-AC24506-01 (Mo. Cir. Aug. 12, 2019). But Judge Heggie recognized "there [was] little case law on point regarding the court's jurisdiction over a nationwide class" when he made his decision. *Id.* The Court finds these subsequent federal decisions persuasive and consistent with other Missouri judges who have certified classes with class members living outside Missouri. *See, e.g., See, e.g., Auto. Acceptance Corp. v. Nichols*, No. 15CY-CV07631-01 (Mo. Cir. Oct. 3, 2022) (certifying class despite AAC arguing the court lacked personal jurisdiction over AAC regarding non-Missouri residents); *Auto. Acceptance Corp. v. Nichols*, No. WD85632 (Mo. App. Aug. 26, 2022) (denying permission to appeal class certification based on same argument); *State ex rel. Auto. Acceptance Corp. v. Flook*, No. SC99801 (Mo. Nov. 11, 2022) (denying writ of prohibition based on same argument); *Ally Fin. Inc. v. Haskins*, No. 16JE-AC01713-01 (Mo. Cir. Nov. 25, 2019) (refusing to decertify class based on same personal jurisdiction arguments); *State ex rel. Ally Fin. Inc. v. Hardy-Senkel*, No. SC98285 (Mo. Mar. 17, 2020) (denying writ of prohibition based on same argument).

appearance is subject "to the jurisdiction of the court for ***all purposes***." *State ex rel. Sperandio v. Clymer*, 581 S.W.2d 377 (Mo. banc 1979) (emphasis added).

The Court finds it has jurisdiction to resolve the claims of all class members.

Rule 52.08(a)(1): Numerosity. Martinez has met this requirement. Rule 52.08(a)(1) requires the class to be "so numerous that joinder of all members is impracticable." Mo. R. Civ. P. 52.08(a)(1). State Farm's discovery production indicates there are 14,163 "loan accounts nationwide for which pre-sale notices were sent after a default, the vehicle was repossessed, and the debt was not subsequently discharged in bankruptcy." Afni's discovery production indicates that number may be as high as 20,776 accounts. Either number easily satisfies numerosity. *Frank*, 577 S.W.3d at 168; *Dale*, 204 S.W.3d at 168.

Rule 52.08(a)(2): Commonality. Martinez has met this requirement. Rule 52.08(a)(2) requires "there are questions of law or fact common to the class." A single common issue may satisfy this requirement. *Dale*, 204 S.W.3d at 175 ("a single common issue may be the overriding one in the litigation, despite the fact that the suit also entails numerous remaining individual questions."). The common issue "need not be dispositive of the controversy or even be determinative of the liability issues involved." *Hootselle*, 624 S.W.3d at 134. The Missouri Supreme Court noted:

> As to liability, however, the class claims are based on an interpretation of the form UCC notices regarding the right to cure the default and rights to presale and post-sale notice of disposition of the collateral. A central aspect of Weatherspoon's putative class action is a determination of whether GCAC violated any statutory provisions governing its form UCC notices. Claims involving the interpretation of form contracts often present a "classic case for treatment as a class action." *McKeage v. TMBC, LLC*, 847 F.3d 992, 999 (8th Cir. 2017) (internal quotation omitted). GCAC has not established the circuit court abused its discretion by concluding common liability issues predominate.

GCAC, 570 S.W.3d at 47.

As in *GCAC*, the class claims are based on interpreting the form UCC notices regarding the rights to presale and post-sale notice of disposition of the collateral. A central part of Martinez's class action is a determination of whether Counterclaim Defendants violated any statutory provisions governing its form UCC notices. This is a classic case for class treatment. *Id.* If predominance is satisfied, commonality is satisfied because the "common-question-predominance requirement of Rule 52.08(b)(3) is far more demanding than the commonality prerequisite of Rule 52.08(a)(2)." *Dale*, 204 S.W.3d at 175; *Custom Hair Designs by Sandy v. Cent. Payment Co., LLC,* 984 F.3d 595, 601 (8th Cir. 2020) ("Predominance subsumes the commonality requirement, so both can be analyzed through the lens of predominance.").

Commonality is satisfied.

Rule 52.08(a)(3): Typicality. Martinez has met this requirement. Rule 52.08(a)(3) requires "the claims … of the representative parties are typical of the claims … of the class." The Supreme Court explained to "satisfy the typicality requirement, the class representative 'must be a part of the class and possess the same interest and suffer the same injury as the class members.'" *GCAC*, 570 S.W.3d at 47. "The burden of demonstrating typicality is fairly easily met so long as other class members have claims similar to the named plaintiff." *Dale*, 204 S.W.3d at 169.

Martinez is "a part of the class" because she fits the class definition. *Hayes v. Wal-Mart Stores, Inc.*, 725 F.3d 349, 360 (3d Cir. 2013) ("It is axiomatic that the lead plaintiff must fit the class definition. Plaintiffs cannot represent a class of whom they are not a part."). Counterclaim Defendants mailed Martinez presale and post-sale notices, so she fits the class definition. Counterclaim Defendants have no deficiency judgment against Martinez and she didn't file for bankruptcy, so she isn't a person to be excluded from the class definition.

Martinez also "possess[es] the same interest and suffer[ed] the same injury as the class members." *GCAC*, 570 S.W.3d at 47. This test is met, and typicality is satisfied, when all the claims arise from the same event or course of conduct of the defendant and provide the same legal or remedial theory. *Elsea v. U.S. Eng'g Co.*, 463 S.W.3d 409, 420 (Mo. App. W.D. 2015) (finding the "circuit court abused its discretion in finding that the typicality requirement was not met" because "the circuit court fail[ed] to recognize that *all* of the claims arise from the same event or course of conduct of the *defendant.*"). All the claims arise from the same event or course of conduct of Counterclaim Defendants: the mailing of form UCC notices regarding rights to presale and post-sale notice of disposition of the collateral. All class members seek the same legal remedy: damages provided by § 9-625, prejudgment interest, injunctive relief, and attorney's fees.

Counterclaim Defendants contend Martinez cannot satisfy typicality because she lacks standing and the vehicle was not purchased or used primarily for personal, family, or household purposes.

Standing

In a class action, "standing requirements [are] assessed with reference to the class as a whole, not simply with reference to the individual named plaintiffs." *Lucas Subway MidMo, Inc. v. Mandatory Poster Agency, Inc.*, 524 S.W.3d 116, 131 (Mo. App. W.D. 2017). It would be reversible error to find "that standing should be a bar to class certification at this stage." *Id.*

Regardless, the Court of Appeals has ***twice*** rejected the same standing argument made by Counterclaim Defendants when applied to claims under the UCC. *See Show-Me Credit Union v. Mosely*, 541 S.W.3d 28, 33 n.6 (Mo. App. E.D. 2018) (rejecting argument that a failure to "allege harm" meant the debtor lacked standing under the UCC); *Mancuso v. Long Beach Acceptance Corp.*, 254 S.W.3d 88, 92 (Mo. App. W.D. 2008) (although the plaintiff claimed no harm or damage, the Court of Appeals found "she has standing to bring this action.") A Pennsylvania court also rejected arguments strikingly like Counterclaim Defendants' argument. *Five Star Bank v. Chipego*, 2024 PA Super 46, 312 A.3d 910 (Mar. 14, 2024) (rejecting various attacks on standing, including argument that redemption deprived class members of standing). Missouri circuit judges have rejected this argument, too. *See, e.g., Auto. Acceptance Corp. v. Nichols*, No. 15CY-CV07631-01 (Mo. Cir. Oct. 3, 2022) (certifying class despite argument debtor lacked standing because he testified in his deposition he didn't see the UCC notices); *Commerce Bank v.*

Kirkpatrick, No. 18JE-AC00459 (Mo. Cir. July 19, 2021) (certifying class despite argument debtor lacked standing because the notices sent to her were returned in the mail); *Stuart Radloff, Trustee, for Talamante v. 1st Fin. Fed. Credit Union*, No. 1922-CC10792 (Mo. Cir. Jun. 9, 2021) (certifying class despite argument the debtor lacked standing because there was allegedly no reliance on or harm from UCC notices). Even Judge Heggie rejected Counterclaim Defendants' arguments. *AmeriCredit Fin. Servs., Inc. v. Bell*, No. 15SL-AC24506-01 (Mo. Cir. Mar. 2, 2021) ("the court finds that Bell's alleged injury is concrete, even if she did not see the presale or post-sale notices. Bell has standing to bring the counterclaim.")

Primary Purpose of Vehicle

Martinez is a part of the class because she was mailed notices. Martinez has the same claims as the class because she alleges, and this Court found by denying the motions to dismiss, Counterclaim Defendants violated the UCC by not stating the intended method of disposition and misstating the redemption rights. These UCC violations exist regardless of whether her transaction was consumer or non-consumer. 810 ILCS 5/9-613(1)(C); 810 ILCS 5/9-623(c). Whether "the vehicle was purchased or used primarily for personal, family, or household purposes" only goes to whether Martinez and the class are entitled "to statutory ***damages***" under 810 ILCS 5/9-625(c)(2) for her claim, not the claim itself. 810 ILCS 5/1-305(b); 810 ILCS 5/9-625(a), (b). *See Dale*, 204 S.W.3d at 169 ("The burden of satisfying the typicality requirement is fairly easily met so long as other class members have claims similar to the named plaintiff.")

Assuming the consumer nature of the purchase was relevant to the typicality analysis, this Court couldn't resolve the nature of Martinez's purchase in a motion for class certification because that is a merits-based inquiry. *Stuart Radloff, Trustee, for Talamante v. 1st Fin. Fed. Credit Union*, No. 1922-CC10792 (Mo. Cir. Jun. 9, 2021), at 7–8 (certifying the class after finding it inappropriate to resolve whether the purchase was for consumer purposes because it would require the court to engage in a merits-based inquiry). Here, Martinez alleged she entered "a consumer credit contract" and the vehicle "was bought for use primarily for personal, family, or household purposes." Counterclaim argues deposition testimony shows the vehicle was purchased for "work." "A class certification hearing is a procedural matter in which the sole issue is whether plaintiff has met the requirements for a class action…. Thus, the trial court has no authority to conduct a preliminary inquiry into whether the plaintiff has stated a cause of action or will prevail on the merits." *Elsea* 463 S.W.3d at 416 (quoting *Meyer,* 220 S.W.3d at 715).

Typicality is satisfied.

Rule 52.08(a)(4): Adequacy. Martinez has met this requirement. Rule 52.08(a)(4) requires a finding that "the representative parties will fairly and adequately protect the interests of the class." Rule 52.08(a)(4). The adequacy requirement "applies both to the named class representatives and to class counsel." *Vandyne v. Allied Mortg. Capital Corp.,* 242 S.W.3d 695, 698 (Mo. banc 2008). "In determining whether the adequacy prerequisite is satisfied as to a class representative, the circuit court must consider whether the named representative has, or may develop during the course of litigation, any conflicts of interest that will adversely affect the interests of the class." *Id.* "But perfect symmetry of interest is not required and not every discrepancy among the interests of class members renders a putative class action untenable. To forestall class certification the intra-class conflict must be so substantial as to overbalance the

common interests of the class members as a whole." *Vogt v. State Farm Life Ins. Co.*, 963 F.3d 753, 767 (8th Cir. 2020) (cleaned up).

Martinez has no interests antagonistic to the other class members. The interests of Martinez and the class members are aligned, if not mostly identical. Resolution of questions favorable to Martinez's claim will be favorable to the class; Martinez and the class seek the same form of relief for the same alleged conduct. The class has a "shared interest in establishing [Counterclaim Defendants'] liability," and there are no class conflicts "so substantial as to overbalance the common interests of the class members as a whole." *Vogt*, 963 F.3d at 768. Martinez has also hired competent counsel with experience in class action litigation, especially consumer class action litigation in Missouri courts.

Adequacy is satisfied.

Rule 52.08(b)(3): Predominance. Martinez has met this requirement. Rule 52.08(b)(3) requires the Court to find "questions of law or fact common to the members of the class predominate over any questions affecting only individual members." The predominance requirement doesn't "demand that every single issue in the case be common to all the class members…. The predominate issues need not be dispositive of the controversy or even be determinative of the liability issues involved. Common questions of law or fact may be overriding, despite the fact that the suit also entails numerous individual questions." *Hootselle*, 624 S.W.3d at 134. The Supreme Court held cases like this satisfy the predominance requirement because "common liability issues predominate[.]" *GCAC*, 570 S.W.3d at 47.

Counterclaim Defendants contend predominance is not met here because of four individualized inquiries regarding standing, the purpose of the purchase, whether the violations were seriously misleading, and whether the vehicles were redeemed. These same arguments were made or existing in *GCAC*, but the Supreme Court rejected them and found "common liability issues predominate." *GCAC*, 570 S.W.3d at 47. The Court is not persuaded these inquiries are individualized, but even if they are, the predominance of the common liability issues identified in *GCAC* isn't defeated even if individual questions of damages or defenses to individual claims remain as alleged by Counterclaim Defendants. *State ex rel. Am. Family Ins. v. Clark*, 106 S.W.3d 483, 488 (Mo. banc 2003); *see also Meyer*, 220 S.W.3d at 716 ("'when one or more of the central issues in the action are common to the class and can be said to predominate,' the case may properly proceed as a class action, even though other important matters will have to be tried separately.")

Standing

For the same reason Counterclaim Defendants' standing arguments do not defeat typicality, they also do not defeat predominance.

Primary Purpose of Vehicle

For the same reason Counterclaim Defendants' arguments regarding the purpose of the purchase do not defeat typicality, they also do not defeat predominance. Counterclaim Defendants' interpretation of Rule 52.08 would prevent ***all*** consumer class actions from being certified. Missouri courts have rejected their arguments. *See, e.g., Smith v. Centrix Fin., LLC*, No. 0516-CV05165 (Mo. Cir. June 13, 2006), at 11 ("Defendants' second argument, that individualized

determinations will have to be made as to whether the class members' cars can be considered 'consumer goods' collateral, is also without substance. Defendants' own form contracts and Centrix's internal policies are geared only to consumer goods collateral."); *Ally Fin. Inc. v. Haskins*, No. 16JE-AC01713-01 (Mo. Cir. May 9, 2018), at 5 ("Predominance is qualitative, not quantitative. Ally's liability may be established by its form documents, and if as alleged by Counterclaimants, the presale and post-sale notices contain at least one of the same deficiencies as in their notices, this common issue would be the overriding one in the litigation even if many individual issues remained as alleged by Ally regarding … the consumer nature of the purchase").

Many other courts have rejected the Counterclaim Defendants' argument, too. *Yazzie v. Gurley Motor Co.*, 2015 WL 10818834, at *5 (D.N.M. Oct. 30, 2015) (collecting cases); *Eatmon v. Palisades Collection LLC,* 2011 U.S. Dist. LEXIS 4556, at *15 (E.D. Tex. Jan. 18, 2011) (holding a "personal, family, or household purposes" requirement could "be satisfied with written records, which is sufficient for class certification"); *Irwin v. Mascott,* 96 F.Supp.2d 968, 973 (N.D. Cal. 1999) (defendants' failure to maintain information letting them determine whether customers' purchases were primarily for personal use should not bar consumer class action proceeding): *Berrios v. Sprint Corp.,* 1998 U.S. Dist. LEXIS 6579, at *30–31 (E.D.N.Y. Mar. 16, 1998) (reasoning that questions regarding the consumer nature of class members' debts did not overwhelm common questions of law or fact because consumers held residential telephone accounts likely used primarily for personal, family, or household purposes); *Bantolina v. Aloha Motors,* 419 F.Supp. 1116, 1122 (D. Haw. 1976) ("[W]hile there may be some difficulties in determining whether some class members are barred from claiming relief under the Truth in Lending Act because of the commercial nature of the transaction, this Court does not believe that such a potential complexity is overly serious or overshadows the advantages the class-action device provides in this case."); *Talbott v. GC Servs. Ltd. P'ship*, 191 F.R.D. 99, 106 (W.D. Va. 2000) ("It is true that Talbott's proposed VCM will need to show that the debt is consumer in nature. However, 'determinations of whether each transaction involved a 'consumer debt' do not predominate over issues common to the class.' Such issues of proof, should they arise, can be addressed 'in a manner which will not require the testimony of each and every' recipient of the dunning letter.")

The Court also agrees if there must be an inquiry into the nature of the purchase later, that task should be equally straightforward because the notices include information only required for consumer-goods transactions; the form contracts have TILA disclosures only required for consumer transactions[3] and call themselves "consumer credit contracts"; and for class members who purchased insurance from State Farm, as did Martinez, Counterclaim Defendants "can see if class members were placed in the rate class for drivers who use their vehicles for business purposes." *Yazzie*, 2015 WL 10818834, at *6. Indeed, Martinez provided evidence that State Farm's "primary lending strategy is offering ***consumer*** vehicle, credit card, and mortgage lending products to [State Farm] insurance policy holders." In that regard, this alleged "problem is more

[3] TILA addresses consumer credit transactions "primarily for personal, family or household purposes." *See* 15 U.S.C. § 1602(i).

theoretical than real in the circumstances of this case[.]" *Hughes v. Kore of Indiana Enterprise, Inc.*, 731 F.3d 672, 677 (7th Cir. 2013).[4]

Seriously Misleading Violations

Counterclaim Defendants suggest the Court must decide whether the redemption date used in the presale notices was "seriously misleading." But the Court found Counterclaim Defendants' presale notice violated the UCC requirement to specifically and unambiguously identify the intended method of disposition, so it is unnecessary for the Court to decide if Counterclaim Defendants violated other presale notice requirements. *Boulevard Bank v. Malott,* 397 S.W.3d 458, 462 (Mo. App. W.D. 2013) ("Malott alleges that the Bank's March 19, 2009 notice was deficient in ***multiple respects***. We need only address ***one*** of his claims: that the notice failed to specify the method by which the Bank intended to dispose of his repossessed vehicle.") The Counterclaim Defendants made this same argument in seeking to dismiss Martinez's counterclaim and the Court did not find them persuasive then nor now. Regardless, if this individual issue existed and had to be decided by the Court, it wouldn't predominate because the Court could determine as a matter of law the number of days that renders every notice in violation of the UCC (whether that be 15 days or two months, or something between).

Redemption

Counterclaim Defendants contend potential redemptions might impose individual issues. But Counterclaim Defendants identified no individual issues. Rather, Counterclaim Defendants' arguments went to the merits (i.e., "810 ILCS 5/9-611(b) imposes no obligation" if State Farm "did not dispose of redeemed collateral under 810 ILCS 5/9-610"). The Court will not resolve the merits in deciding certification. *GCAC*, 570 S.W.3d at 50 n.7 ("GCAC's statutory interpretation argument attempts to resolve the merits of the class action at the certification stage," which a court cannot do). Whether disposition is a required element of a consumer's claim is a common, predominating question of law, not an individual one. Counterclaim Defendants argued Martinez's claim accrued when the notice was ***received***, making disposition unnecessary to the Class's claims.

A Pennsylvania court recently rejected Counterclaim Defendants' argument. *Chipego*, 2024 PA Super 46, 312 A.3d 910. In *Chipego*, the bank contended "the New York plaintiffs who redeemed their vehicles cannot show causation of harm, thus, they are not aggrieved, and therefore lack standing to sue for statutory damages." *Id.* at 920. The *Chipego* court rejected this argument because "even assuming the New York plaintiffs cannot prove causation of harm, they still have the right to seek the statutory damages available under N.Y. UCC § 9-625(c)(2) 'regardless of any injury that may have resulted.'" *Id.* at 921. Illinois's law is the same. 810 ILCS 5/9-625 cmt. 3. So is Missouri's. *Mosely*, 541 S.W.3d at 33 n.6.

Predominance is satisfied.

[4] This is especially true under Illinois law where "subjective notions cannot override the objective evidence." *First National Bank v. Lachenmyer*, 146 Ill. App.3d 1035, 1039 (1986) (gleaning nature of purchase "from the statements in the note and security agreement").

Rule 52.08(b)(3): Superiority. Martinez has met this requirement. Rule 52.08(b)(3) also requires the Court to find "that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." Rule 52.08(b)(3) lists four superiority factors:

> (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of a class action.

The Court finds these factors all support class certification. A class action is superior to thousands of individual actions involving the same form documents and uniform business practices. Without a class action, there is little likelihood class members will know they have any claims against Counterclaim Defendants like the claims being advanced. The class action device provides an effective procedural tool for advancing and enforcing the important public policy considerations underlying the statutes Martinez seeks to invoke, both for herself and for the Class.

"The primary focus of the superiority analysis is the efficiency of the class action over other available methods of adjudication. The analysis permits consideration of the improbability that large numbers of class members would possess the initiative to litigate individually." *Hootselle*, 624 S.W.3d at 134. As in *Hootselle*, the superiority requirement is met because the alternative to certification would create the need for thousands of individual actions to decide the same issues—among individuals that likely lack the resources or initiative to litigate individually. Here, the benefits of class adjudication outweigh any potential costs.

IT IS THEREFORE ORDERED THAT:

1. The Motion for Class Certification is granted.

2. The Court certifies a class comprising:

> All persons who Counterclaim Defendants mailed a presale notice or post-sale explanation.
>
> Excluded from the Class are persons against whom State Farm has obtained a final deficiency judgment or who filed for bankruptcy after the date on their presale notice and whose bankruptcy ended in discharge rather than dismissal.

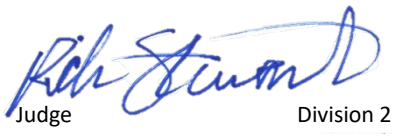
3. Martinez is appointed as the class representative.

4. Martin L. Daesch, Jesse B. Rochman, and Craig W. Richards are appointed as class counsel.

5. The parties shall send notice to all members who can be identified through

reasonable effort and submit a proposed notice complying with Rule 52.08(c)(3) to the Court for approval. The parties shall submit one joint notice showing each party's position where the parties disagree within 30 days after this Order. If the parties cannot agree on a class administrator, Martinez shall move to appoint a proposed class administrator.

SO ORDERED:



Judge Division 2

Exhibit B

In the Missouri Court of Appeals
Eastern District

AFNI, INC., ASSIGNEE OF STATE FARM BANK, PLAINTIFF,	)	No. ED113324
	)	Writ of Prohibition
vs.	)	ST. LOUIS COUNTY CIRCUIT COURT Cause No. 23SL-AC00070-01
THUY MARTINEZ, AND MIGUEL MARTINEZ, DEFENDANTS, AND EMVLP, LLC, TWENTY-ONE, EIGHTY-FIVE, LLC, STATE FARM BANK, F.S.B., AND ROE ENTITIES, I-X, SUCCESSORS TO STATE FARM BANK, F.S.B., THIRD PARTY DEFENDANTS.	)	

ORDER

Defendant has filed a Petition for Permission to Appeal Class Certification along with Exhibits and a Motion to Accept Petition for Leave to Appeal out of Time. Plaintiff has filed Suggestions in Opposition and Exhibits to the Petition for Permission to Appeal Class Certification.

Being duly advised in the premises, the Court hereby DENIES Defendant's Petition for Permission to Appeal Class Certification as untimely. The Motion to Accept Petition for Leave to Appeal out of Time is DENIED.

SO ORDERED.

DATED: February 24, 2025

Angela T. Quigless

Angela T. Quigless, Presiding Judge
Writ Division V
Missouri Court of Appeals, Eastern District

MISSOURI COURT OF APPEALS EASTERN DISTRICT

cc: Thuy Martinez
Benjamin Hutnick
Brady Keith
Daniel Rabin
James Sanders
Miguel Martinez
Jesse Rochman
Peter Herzog
James Brodzik
Kaitlin Carpenter
Martin Daesch
Craig Richards

Exhibit C

In the Supreme Court of Missouri

May Session, 2025

State ex rel. EMVLP, LLC, et al.,

Relators,

No. SC101051 PROHIBITION
St. Louis County Circuit Court No. 23SL-AC00070-01
Eastern District Court of Appeals No. ED113324

The Honorable Richard M. Stewart,

Respondent.

Now at this day, on consideration of the petition for a writ of prohibition herein to the said respondent, it is ordered by the Court here that the said petition be, and the same is hereby denied.

STATE OF MISSOURI-Sct.

I, BETSY LEDGERWOOD, Clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full, true and complete transcript of the judgment of said Supreme Court, entered of record at the May Session thereof, 2025, and on the 27th day of May, 2025, in the above-entitled cause.

WITNESS my hand and the Seal of the Supreme Court of Missouri, at my office in the City of Jefferson, this 27th day of May, 2025.

Betsy Ledgerwood, Clerk

Kelsey Hill, Deputy Clerk

Supreme Court of Missouri

vs.

MANDATE

JUDGMENT