

**In the Missouri Court of Appeals
Eastern District
DIVISION ONE**

AMERICAN FIRST FEDERAL, INC.,)	No. ED90672
)	
Respondent,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	05CC-001966
BATTLEFIELD CENTER, L.P., et al.,)	Honorable Richard C. Bresnahan
)	
Appellants.)	Filed: January 20, 2009

OPINION SUMMARY

Battlefield Center, L.P. ("Maker") and Christopher J. Kersten ("Guarantor") (collectively "Defendants") appeal from the grant of summary judgment in favor of American First Federal, Inc. ("Holder") on its claims demanding payment for the balances due under three notes executed by Maker and guaranteed by Guarantor, and on Defendants' counterclaim for wrongful foreclosure. They argue that summary judgment is improper because (1) Holder lacked standing to sue Guarantor on his guaranty; (2) genuine issues of material fact exist as to their personal defenses, which were pled in the form of affirmative defenses to Holder's claims; and (3) genuine issues of material fact exist as to their counterclaim for wrongful foreclosure.

AFFIRMED.

Division One holds:

- (1) Holder had standing to sue Guarantor because Guarantor's guaranty was transferred to Holder by operation of law.
- (2) Defendants did not properly plead their affirmative defenses.
- (3) Defendants have failed to demonstrate the existence of genuine issues of material fact with respect to their counterclaim for wrongful foreclosure.

Opinion by: Glenn A. Norton, Judge

Kurt S. Odenwald, P.J. and Patricia L. Cohen, J.,

Paul J. Puricelli, Robb E. Hellwig*

John E. Toma, Jr., Melissa M. Zensen

*(Temporarily admitted in MO

For Appellants

pursuant to Rule 8.06)

For Respondent

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.
