

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**DAVID C. McLEAN, et al.,
APPELLANT-RESPONDENT**

vs.

**FIRST HORIZON HOME LOAN CORPORATION,
RESPONDENT-APPELLANT**

WD69505 (69529)

DATE: March 10, 2009

Appeal from:
JACKSON COUNTY CIRCUIT COURT
THE HONORABLE VERNON E. SCOVILLE, JUDGE

Appellate Judges:
Division Three: Howard, P.J., Ellis and Ahuja, JJ.

Attorneys:
Roy F. Walters, Esq., Kansas City, MO., for Appellant-Respondent
Mark Alan Olthoff, Esq., Kansas City, MO, for Respondent-Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS, WESTERN DISTRICT

DAVID C. McLEAN, et al.,

APPELLANT-RESPONDENT

v.

FIRST HORIZON HOME LOAN CORPORATION,

RESPONDENT-APPELLANT

WD69505(69529)

Jackson County, Missouri

Before Division Three Judges: Howard, P.J., Ellis and Ahuja, JJ.

This appeal arises from the resolution of disputed claims relating to the settlement of a class action suit against First Horizon Loan Corporation, formerly known as McGuire Mortgage Company. The McLeans, as individuals and class representatives, appeal from a judgment granting First Horizon's Motion for Court Interpretation of Settlement Agreement and Enforcement of Judgment.

REMANDED FOR DISMISSAL; CROSS-APPEAL DISMISSED.

Division Three holds:

- (1) This Court has jurisdiction to determine whether the circuit court lacked jurisdiction to rule on the motion, but we have no jurisdiction to review the merits of the circuit court's ruling because the circuit court lacked jurisdiction.
- (2) The circuit court erred in granting First Horizon's motion because the court lost jurisdiction to modify the judgment approving the class action settlement when the judgment became final after thirty days because no post-judgment motions were filed. Despite the title of First Horizon's motion, the motion sought to have the court modify the terms of judgment, not merely enforce the terms of the original judgment. The judgment incorporated the clear and ambiguous term in the settlement agreement that the Special Masters' determinations regarding the amount and validity of disputed claims were final and not subject to further challenge or appeal, and First Horizon's motion sought to have the court review those determinations.

Opinion by: Joseph M. Ellis, J.

March 10, 2009

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