

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

MARGARET SMITH and RON ORIET

Plaintiffs/
Defendants by Counterclaim

- and -

NATIONAL MONEY MART COMPANY and DOLLAR FINANCIAL GROUP, INC.

Defendants/
Plaintiffs by Counterclaim

Proceedings under the Class Proceedings Act, 1992

**REPLY TO DEFENCE TO COUNTERCLAIM OF
NATIONAL MONEY MART COMPANY**

1. The Defendant/Plaintiff by Counterclaim, National Money Mart Company ("**Money Mart**"), admits the allegation contained in paragraph 13 of the Reply and Defence to Counterclaim of National Money Mart Company (the "**Defence to Counterclaim**").
2. Except as admitted herein, Money Mart denies each and every other allegation contained in the Defence to Counterclaim and puts the Plaintiffs to the strict proof thereof.
3. Money Mart repeats and relies upon the allegations contained in its Statement of Defence and Counterclaim.
4. In reply to paragraph 6 of the Defence to Counterclaim, by the terms of the Loan Agreement, the customer is required to provide a post-dated cheque in an amount equal to "the amount of the Loan, interest and Money Mart's standard first party cheque cashing fee".

5. In addition, Money Mart specifically denies that the first party cheque cashing fee is interest. The first party cheque cashing fee is charged for the separate cheque cashing service. It is a fee the customer chooses to incur for the benefit and convenience of not having to return to the Money Mart outlet to repay the loan. Since the first party cheque cashing service is not used where the customer repays a Loan on or before the due date, the customer pays none of the cheque cashing fees associated with that service.

6. In reply to paragraphs 7 to 9 of the Defence to Counterclaim, Money Mart denies that the Loans were developed in the United States by Dollar Financial and then introduced into Canada as Fast Cash Advance. The initial development and implementation of the Loans was by Money Mart, independently and prior to Money Mart's acquisition by DFC in November 1996.

7. Money Mart also denies making representations to its auditors or to Revenue Canada that the Loans were developed in the United States by Dollar Financial and then introduced into Canada as Fast Cash Advance. In any event, any representations made by Money Mart to its auditors or to Revenue Canada are irrelevant for the purposes of these proceedings.

8. Money Mart specifically denies that it is estopped from asserting that the Loans were originally developed and implemented by it independently of Dollar Financial. Money Mart made no representations to the Plaintiffs or to Class Members regarding the development and implementation of the Loans. Neither the Plaintiffs nor the Class Members relied on any representations by Money Mart regarding the development and implementation of the Loans. Neither the Plaintiffs nor the Class Members were detrimentally affected by any representations made by Money Mart regarding the development and implementation of the Loans.

9. Money Mart denies that the allegations contained in paragraphs 10 and 11 of the Defence to Counterclaim accurately describe the relationship between it and Dollar Financial. In any event, the business interactions described in those paragraphs are typical and expected in a parent-subsidiary relationship. Those business interactions do not establish that Money Mart is the “alter ego” of Dollar Financial. On the contrary, Dollar Financial does not and has never exercised effective or actual control or management of Money Mart’s business. Money Mart is a separate corporation and operates autonomously.

10. In reply to paragraph 12 of the Defence to Counterclaim, Money Mart denies that it had knowledge that any monies received from its Franchisees came from a Fast Cash Advance Loan with a Class Member. The Franchisees carry on business in stores that were neither owned nor operated by Money Mart. Money Mart does not have knowledge of the identities of the customers of the Franchisees. Any transactions between the Franchisees and customers involve agreements between those customers and the Franchisees and do not involve any agreements between Money Mart and those customers.

11. In reply to paragraphs 14 to 18 of the Defence to Counterclaim, Money Mart states that it has a counterclaim and rights of set-off against each and every Class Member who has, at any material time, defaulted on a Loan or failed to pay Money Mart any other amount properly due to Money Mart, whether in respect of a Loan or any other service provided by Money Mart to the Class member, pursuant to the Class Member’s agreements with Money Mart (the “Defaulters”). Until Money Mart’s counterclaim and rights of set-off have been determined, liability cannot be established against Money Mart by any Defaulter, and no aggregate assessment of monetary relief can be made pursuant to s. 24 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto

**REPLY TO DEFENCE TO
COUNTERCLAIM OF
DOLLAR FINANCIAL GROUP, INC.**

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