

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PATRICK A. MCGEE and LISA MCGEE,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 16 C 7435
)	
FEDERAL NATIONAL MORGAGE)	
ASSOCIATION, et al.,)	
)	
Defendants.)	

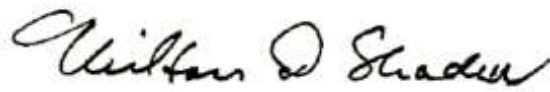
MEMORANDUM ORDER

Pierce & Associates, P.C. ("Pierce"), one of the defendants in this Fair Debt Collection Practices Act action brought by Patrick and Lisa McGee (collectively the "McGees"), has filed its Answer and Affirmative Defenses to their First Amended Complaint ("FAC"). Although that responsive pleading is unexceptionable in most respects by making it clear as to what matters are or are not in issue as between the McGees and Pierce in accordance with the notice pleading principles applicable to federal litigation, one pervasive error prompts this sua sponte memorandum order.

Nearly two-thirds of the Answer's paragraphs (Answer ¶¶ 5, 7, 9, 11, 12, 16, 17, 21-29,¹ 32, 33, 35, 38, 42, 45-55 and 58-66) invoke the disclaimer provision embodied in Fed. R. Civ. P. ("Rule") 8(b)(5) to provide for situations in which no straightforward admission or denial is

¹ Because McGees' FAC has inadvertently included two paragraphs bearing the number 29, it should be made clear that the text refers to the first of those two paragraphs.

appropriate as called for by Rule 8(b)(1)(B).² But having done so, Pierce's counsel follows each Rule 8(b)(5) invocation with the statement "and therefore denies them on that basis." But it is of course oxymoronic for a party to assert (presumably in good faith) that it lacks even enough information to form a belief as to the truth of an allegation, then proceed to deny it. Because such a denial is at odds with the pleader's obligations under Rule 11(b), the quoted language is stricken from each of those paragraphs of the Answer.



Milton I. Shadur
Senior United States District Judge

Date: November 17, 2016

² This Court expresses no view as to the appropriateness or inappropriateness of any denial or any Rule 8(b)(5) invocation on Pierce's part. Any possible problems in that respect will be left to McGees' counsel to raise.