

proposed amendments will be deemed to have been granted, and defendants are deemed to have denied the additional averments in all material respects. No further pleading will be required.

(2) Plaintiff, a college-educated, retired military officer in his early 70s, obtained a \$405,000 mortgage on his residence. Of that amount, plaintiff realized a total of \$10,557.57 at settlement. The balance of the mortgage loan was expended in satisfying two prior mortgages in the total amount of \$193,041.80, and the balance due on 11 credit cards, aggregating \$193,238.

Plaintiff asserts that he was not afforded a genuine opportunity to review the settlement papers before he signed them (the settlement was apparently held at plaintiff's home on the evening of December 23, and was allegedly conducted by a young man not at all familiar with the transaction). Plaintiff further contends that many of the settlement charges were totally unreasonable (e.g., a \$19,000 fee to a mortgage broker for arranging the loan); that he was not made fully aware of the consequences of the adjustable-rate feature of the mortgage (starting at 11.5%, and virtually guaranteed to increase promptly); that the entire transaction was unconscionable, since the monthly payments on the mortgage would be more than double the amount of his total income; and that the defendants failed to respond to his notice of a desire to rescind the transaction. On

behalf of the defendants, it is contended, among other things, that the rescission notice was untimely, and that the defendants fully complied with statutory requirements.

On the present state of the record, I do not believe it would be appropriate to grant summary judgment. There seem to be genuine disputed issues of fact concerning all of the above matters. To put the matter bluntly, it is difficult to determine whether this is a case of predatory lending, or predatory borrowing. I do not believe plaintiff's claims should be rejected simply on the basis of a few isolated excerpts from his deposition; credibility issues should be determined at trial.

An Order follows.

