

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE**

**TROY SHANE SMITH and ALLYSON JANE
SMITH,****INDEX NO. 814633/2023****Plaintiffs,****- against -****VERIFIED ANSWER TO
PLAINTIFFS' VERIFIED
COMPLAINT, AFFIRMATIVE
DEFENSES, CROSS-CLAIMS
AND ANSWER TO
CROSS-CLAIMS OF ABB INC.****84 LUMBER COMPANY, et al.,
ABB INC., formerly known as Brown Boveri,****Defendants.**

Defendant ABB Inc., (sued herein as ABB INC., formerly known as Brown Boveri) (hereinafter "ABB Inc." or "Defendant"), by its attorneys Malaby & Bradley, LLC, hereby answers the Verified Complaint ("Complaint") as follows:

AS TO THE PARTIES

1. ABB Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 1 through 3 of the Complaint and refers all questions of law and/or fact to the Court.
2. Paragraph 4 of the Complaint is stylistic in nature and does not require an admission or denial by ABB Inc.
3. ABB Inc. denies the allegations contained in paragraphs 5 and 8 of the Complaint to the extent they pertain to ABB Inc. except admits that at times ABB Inc. may have transacted business within the State of New York, however such transactions upon information

and belief do not give rise to jurisdiction by the Courts of the State of New York in this matter with respect to ABB Inc., denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent they pertain to or are directed at Plaintiffs or any other defendant in this action, and refers all questions of law and/or fact to the Court.

4. ABB Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 6 through 7 (inclusive) and paragraphs 9 through 61 (inclusive) of the Complaint insofar as these allegations are not directed against it.

5. ABB Inc. denies the allegations contained in paragraph 62 of the Complaint except admits that ABB Inc. was and is a foreign corporation with its principal place of business outside of New York State that may have transacted business at times within the State of New York, however such transactions upon information and belief do not give rise to jurisdiction by the Courts of the State of New York in this matter with respect to ABB Inc. and refers all questions of law and/or fact to the Court.

6. ABB Inc. denies the allegations contained in paragraphs 63 through 69 of the Complaint to the extent they pertain to ABB Inc., denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent they pertain to or are directed at Plaintiff or any other defendant in this action, and refers all questions of law and/or fact to the Court.

{00201998.}
4870-1215-4777, v. 1

AS AND FOR A RESPONSE TO THE FIRST CAUSE OF ACTION
SOUNDING IN NEGLIGENCE

7. With regard to paragraph 70 of the Complaint, ABB Inc. repeats, reiterates and realleges each and every response as to paragraphs 1 through 69 of the Complaint as if more fully set forth herein.

8. ABB Inc. denies each and every allegation contained in paragraphs 76 through 78 of the Complaint, and each subparagraph therein to the extent that they pertain to ABB Inc., denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent they pertain to or are directed at Plaintiff or any other defendant in this action, and respectfully refers all questions of law and/or fact to the Court.

AS AND FOR A RESPONSE TO THE SECOND CAUSE OF ACTION
SOUNDING IN BREACH OF WARRANTY

9. With regard to paragraph 79 of the Complaint, ABB Inc. repeats, reiterates and realleges each and every response as to paragraphs 1 through 78 of the Complaint as if more fully set forth herein.

10. ABB Inc. denies the allegations contained in paragraph 80 of the Complaint to the extent that they pertain to ABB Inc., except admits that ABB Inc.'s products were of good and merchantable quality and fit for their intended uses and purposes, denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent they pertain to or are directed at Plaintiff or any other defendant in this action, and respectfully refers all questions of law and/or fact to the Court.

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4870-1215-4777, v. 1

11. ABB Inc. denies the allegations contained in paragraphs 81 through 83 of the Complaint to the extent that they pertain to ABB Inc., denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent they pertain to or are directed at Plaintiff or any other defendant in this action, and refers all questions of law and/or fact to the Court.

AS AND FOR A RESPONSE TO THE THIRD CAUSE OF ACTION
SOUNDING IN STRICT LIABILITY

12. With regard to paragraph 84 of the Complaint, ABB Inc. repeats, reiterates and realleges each and every response as to paragraphs 1 through 83 of the Complaint as if more fully set forth herein.

13. ABB Inc. denies the allegations contained in paragraphs 84 through 93 of the Complaint to the extent that they pertain to ABB Inc., denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent they pertain to or are directed at Plaintiff or any other defendant in this action, and refers all questions of law and/or fact to the Court.

AS AND FOR A RESPONSE TO THE FOURTH CAUSE OF ACTION
LABOR LAW VIOLATIONS

14. With regard to paragraph 94 of the Complaint, ABB Inc. repeats, reiterates and realleges each and every response as to paragraphs 1 through 93 of the Complaint as if more fully set forth herein.

15. ABB Inc. denies the allegations contained in paragraphs 94 through 112 of the Complaint and each subparagraph therein to the extent that they pertain to ABB Inc., denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent

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they pertain to or are directed at Plaintiff or any other defendant in this action, and refers all questions of law and/or fact to the Court.

**AS AND FOR A RESPONSE TO THE FIFTH CAUSE OF ACTION AGAINST
DEFENDANT METROPOLITAN LIFE INSURANCE COMPANY**

16. With regard to paragraph 113 of the Complaint, ABB Inc. repeats, reiterates and realleges each and every response as to paragraphs 1 through 112 of the Complaint as if more fully set forth herein.

17. ABB Inc. denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 114 through 120.

**AS AND FOR A RESPONSE TO THE SIXTH CAUSE OF ACTION SOUNDING IN
CONSPIRACY AND COLLECTIVE LIABILITY/CONCERT OF ACTION**

18. With regard to paragraph 121 of the Complaint, ABB Inc. repeats, reiterates and realleges each and every response as to paragraphs 1 through 120 of the Complaint as if more fully set forth herein.

19. ABB Inc. denies the allegations contained in paragraphs 122 through 136 of the Complaint, and each subparagraph therein to the extent that they pertain to ABB Inc., denies knowledge or information sufficient to form a belief as to the truth of the allegations to the extent they pertain to or are directed at Plaintiff or any other defendant in this action, and refers all questions of law and/or fact to the Court.

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