

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIE

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TROY SHANE SMITH and ALLYSON JANE SMITH,

Plaintiff(s),

Index No.: 814633/23

-against-

VERIFIED ANSWER

84 LUMBER COMPANY, et al.,

Defendants.

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C O U N S E L O R S :

Defendant, 84 LUMBER COMPANY, through its attorneys, BARRY McTIERNAN & MOORE LLC, answering the Verified Complaint of the plaintiff, states as follows:

1. Denies any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs numbered “1”, “2”, “3”, “6”, “7”, “8”, “9”, “10”, “11”, “12”, “13”, “14”, “15”, “16”, “17”, “18”, “19”, “20”, “21”, “22”, “23”, “24”, “25”, “26”, “27”, “28”, “29”, “30”, “31”, “32”, “33”, “34”, “35”, “36”, “37”, “38”, “39”, “40”, “41”, “42”, “43”, “44”, “45”, “46”, “47”, “48”, “49”, “50”, “51”, “52”, “53”, “54”, “55”, “56”, “57”, “58”, “59”, “60” and “61” of the Verified Complaint.

2. Denies upon information and belief, each and every allegation contained in paragraphs numbered “4” and “5” of the Verified Complaint with all questions of law referred to the Court.

3. Denies upon information and belief, each and every allegation contained in paragraph numbered “6” of the Verified Complaint except admits 84 LUMBER COMPANY is a foreign corporation.

4. Denies each and every allegation contained in paragraph numbered “62”, “63”, “64”, “65”, “66”, “67”, “68” and “69” of the Verified Complaint.

ANSWERING FIRST CAUSE OF ACTION

5. Answering paragraph numbered “70” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “4” of this Verified Answer.

6. Denies each and every allegation contained in paragraph numbered “71”, “72”, “73”, “74”, “75”, “76”, “77” and “78” of the Verified Complaint.

ANSWERING SECOND CAUSE OF ACTION

7. Answering paragraph numbered “79” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “6” of this Verified Answer.

8. Denies upon information and belief, each and every allegation contained in paragraph numbered “80” of the Verified Complaint with all questions of law referred to the Court.

9. Denies each and every allegation contained in paragraphs numbered “81”, “82” and “83” of the Verified Complaint.

ANSWERING THIRD CAUSE OF ACTION

10. Answering paragraph numbered “84” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “9” of this Verified Answer.

11. Denies each and every allegation contained in paragraphs numbered “85”, “87”, “89”, “90”, “91”, “92” and “93” of the Verified Complaint.

12. Denies upon information and belief, each and every allegation contained in paragraphs numbered “86” and “88” of the Verified Complaint with all questions of law referred to the Court.

ANSWERING FOURTH CAUSE OF ACTION

13. Answering paragraph numbered “94” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “12” of this Verified Answer.

14. Denies each and every allegation contained in paragraph “95”, “96”, “97”, “98”, “99”, “100”, “101”, “102”, “103”, “104”, “105”, “106”, “107”, “108”, “109”, “110”, “111” and “112” of the Verified Complaint.

ANSWERING FIFTH CAUSE OF ACTION

15. Answering paragraph numbered “113” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “14” of this Verified Answer.

16. Denies any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs numbered “114”, “115”, “116”, “117”, “118”, “119” and “120” of the Verified Complaint.

ANSWERING SIXTH CAUSE OF ACTION

17. Answering paragraph numbered “121” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “16” of this Verified Answer.

18. Denies each and every allegation contained in paragraph numbered “122”, “123”, “124”, “125”, “126”, “127”, “128”, “129”, “130”, “131”, “132”, “133”, “134”, “135” and “136” of the Verified Complaint.

ANSWERING SEVENTH CAUSE OF ACTION

19. Answering paragraph numbered “137” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “18” of this Verified Answer.

20. Denies any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs numbered “138”, “139”, “140”, “141”, “142”, “143”, “144”, “145”, “146”, “147”, “148”, “149” and “150” of the Verified Complaint.

ANSWERING EIGHTH CAUSE OF ACTION

21. Answering paragraph numbered “151” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “20” of this Verified Answer.

22. Denies any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs numbered “152”, “153”, “154”, “155”, “156”, “157”, “158”, “159”, “160” and “161” of the Verified Complaint.

23. Denies each and every allegation contained in paragraph numbered “162”, “163” and “164” of the Verified Complaint.

24. Denies upon information and belief, each and every allegation contained in paragraphs numbered “165” and “166” of the Verified Complaint with all questions of law referred to the Court.

ANSWERING NINTH CAUSE OF ACTION

25. Answering paragraph numbered “167” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “24” of this Verified Answer.

26. Denies upon information and belief, each and every allegation contained in paragraphs numbered “168”, “169”, “170”, “171”, “172”, “173”, “174”, “175”, “176”, “177”, “178”, “177”, “178” and “179” of the Verified Complaint with all questions of law referred to the Court.

ANSWERING TENTH CAUSE OF ACTION

27. Answering paragraph numbered “180” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “26” of this Verified Answer.

28. Denies each and every allegation contained in paragraph numbered “181” of the Verified Complaint.

ANSWERING EVELENTH CAUSE OF ACTION

29. Answering paragraph numbered “182” of the Verified Complaint, defendant, 84 LUMBER COMPANY, repeats, reiterates and realleges each and every response contained in paragraphs numbered “1” through “28” of this Verified Answer.

30. Denies any knowledge or information sufficient to form a belief as to the allegations contained in paragraph numbered “183” of the Verified Complaint.

31. Denies each and every allegation contained in paragraph numbered “184” of the Verified Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

32. This Court lacks jurisdiction over the answering defendant as a result of improper, and lack of, service of process.

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