

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

TROY SHANE SMITH and ALLYSON JANE
SMITH,

:
:
: Index No. 814633/2023
:

Plaintiffs,

- against -

84 LUMBER COMPANY, et al.,

Defendants.

**VERIFIED ANSWER OF DEFENDANT FLOWSERVE US, INC., SOLELY AS
SUCCESSOR TO ROCKWELL MANUFACTURING COMPANY, EDWARD VALVES,
INC., NORDSTROM VALVES, INC., AND EDWARD VOGT VALVE COMPANY TO
PLAINTIFFS' VERIFIED COMPLAINT**

Defendant Flowserve US, Inc., solely as successor to Rockwell Manufacturing Company, Edward Valves, Inc., Nordstrom Valves, Inc., and Edward Vogt Valve Company (hereinafter “Flowserve US” or “Defendant”), by its attorneys, McElroy, Deutsch, Mulvaney & Carpenter, LLP, hereby responds to the Verified Complaint as follows:

THE PARTIES

1. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraphs 1 and 2 of the Verified Complaint and, accordingly, leaves plaintiffs to their proofs.

2. Defendant denies the allegations of Paragraph 3 of the Verified Complaint to the extent they are directed towards it.

3. There are no allegations contained in Paragraph 4 of the Verified Complaint and, accordingly, no response is made.

4. Defendant denies the allegations of Paragraph 5 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court. Answering further, the allegation that Defendant has conducted and/or transacted business in New York is a question of law to be adjudicated by this Court.

5. The allegations of Paragraphs 6 through 28 of the Verified Complaint are not directed towards this Defendant, and, accordingly, no response is made to them.

6. Defendant denies the allegations of Paragraph 29 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court. Answering further, the allegation that Defendant has conducted and/or transacted business in New York is a question of law to be adjudicated by this Court.

7. The allegations of Paragraphs 30 through 61 of the Verified Complaint are not directed towards this Defendant, and, accordingly, no response is made to them.

8. Defendant denies the allegations of Paragraphs 62 and 63 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court. Answering further, the allegation that Defendant has conducted and/or transacted business in New York is a question of law to be adjudicated by this Court.

9. Defendant denies the allegations of Paragraphs 64 through 69 of the Verified Complaint to the extent they are directed towards it.

AS AND FOR A FIRST CAUSE OF ACTION SOUNDING IN NEGLIGENCE

10. In response to Paragraph 70 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 69 of the Verified Complaint as if set forth at length herein.

11. Defendant denies the allegations of Paragraphs 71 through 78 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

**AS AND FOR A SECOND CAUSE OF ACTION SOUNDING IN
BREACH OF WARRANTY**

12. In response to Paragraph 79 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 78 of the Verified Complaint as if set forth at length herein.

13. Defendant denies the allegations of Paragraphs 80 through 83 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

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

14. In response to Paragraph 84 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 83 of the Verified Complaint as if set forth at length herein.

15. Defendant denies the allegations of Paragraphs 85 through 93 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

AS AND FOR A FOURTH CAUSE OF ACTION LABOR LAW VIOLATIONS

16. In response to Paragraph 94 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 93 of the Verified Complaint as if set forth at length herein.

17. Defendant denies the allegations of Paragraphs 95 through 112 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

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

18. In response to Paragraph 113 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 112 of the Verified Complaint as if set forth at length herein.

19. The allegations of Paragraphs 114 through 120 of the Verified Complaint are not directed toward this Defendant and, accordingly, no response is made.

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

20. In response to Paragraph 121 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 120 of the Verified Complaint as if set forth at length herein.

21. Defendant denies the allegations of Paragraphs 122 through 136 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

**AS AND FOR A SEVENTH CAUSE OF ACTION
AGAINST DEFENDANT CONTRACTORS**

22. In response to Paragraph 137 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 136 of the Verified Complaint as if set forth at length herein.

23. There are no allegations contained in Paragraph 138 of the Verified Complaint and, accordingly, no response is made.

24. Defendant denies the allegations of Paragraphs 139 through 150 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

**AS AND FOR AN EIGHTH CAUSE OF ACTION FOR PREMISES LIABILITY
AGAINST CERTAIN DEFENDANTS**

25. In response to Paragraph 151 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 150 of the Verified Complaint as if set forth at length herein.

26. Defendant denies the allegations of Paragraphs 152 through 166 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

AS AND FOR A NINTH CAUSE OF ACTION JOINT AND SEVERAL LIABILITY

27. In response to Paragraph 167 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 166 of the Verified Complaint as if set forth at length herein.

28. Defendant denies the allegations of Paragraphs 168 through 179 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

AS AND FOR A TENTH CAUSE OF ACTION PUNITIVE DAMAGES

29. In response to Paragraph 180 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 179 of the Verified Complaint as if set forth at length herein.

30. Defendant denies the allegations of Paragraph 181 of the Verified Complaint to the extent they are directed towards it and refers all questions of law to the Court.

**AS AND FOR AN ELEVENTH CAUSE OF ACTION SPOUSAL
LOSS OF CONSORTIUM**

31. In response to Paragraph 182 of the Verified Complaint, Defendant repeats and reiterates each and every response to Paragraphs 1 through 181 of the Verified Complaint as if set forth at length herein.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.