

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

TROY SHANE SMITH and ALLYSON JANE SMITH,
Plaintiffs,

v.

84 LUMBER COMPANY, et al.,
Defendants.

Index No. 814633/2023

**VERIFIED ANSWER TO
PLAINTIFFS' VERIFIED
COMPLAINT, CROSS-
CLAIM AND ANSWER
TO CROSS-CLAIMS OF
CLARK RELIANCE
CORPORATION SOLELY
AS AN ALLEGED
SUCCESSOR TO
JERGUSON GAGE &
VALVE**

X
Defendant Clark Reliance Corporation solely as an alleged successor to Jerguson Gage & Valve, sued incorrectly as "Clark Reliance Corporation, Individually and as Successor to Jerguson", (hereinafter "Jerguson"), by its attorneys Leader Berkon Colao & Silverstein LLP, hereby acknowledges receipt and answers the Plaintiffs' Verified Complaint, filed on November 14, 2023 (hereinafter the "Complaint"), and alleges, upon information and belief, as follows:

THE PARTIES

1. Jerguson denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 1 through 4 of the Complaint.
2. Jerguson denies the allegations contained in paragraph 5 of the Complaint insofar as they are directed at Jerguson, except admits that Jerguson has conducted and/or transacted business in the State of New York.
3. Jerguson denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 6 through 17 of the Complaint.

4. Jerguson denies the allegations contained in paragraph 18 of the Complaint except admits that Jerguson is a foreign corporation that has done and/or transacted business in the State of New York.

5. Jerguson denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 19 through 61 of the Complaint.

6. Jerguson denies the allegations contained in paragraph 62 of the Complaint insofar as they are directed at Jerguson, except admits that Jerguson has conducted and/or transacted business in the State of New York.

7. Jerguson denies the truth of the allegations contained in paragraphs 63 through 69 (inclusive) of the Complaint insofar as they are directed at Jerguson, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraphs, and refers all questions of law to the Court.

AS TO THE FIRST CAUSE OF ACTION SOUNDING IN NEGLIGENCE

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

9. Jerguson denies the truth of the allegations contained in paragraphs 71 through 78 of the Complaint, including all sub-parts, insofar as they are directed at Jerguson, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraphs.

AS TO THE SECOND CAUSE OF ACTION SOUNDING IN BREACH OF WARRANTY

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

11. Jerguson denies the truth of the allegations contained in paragraphs 80 through 83 of the Complaint, insofar as they are directed at Jerguson, and otherwise denies

knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraphs.

AS TO THE THIRD CAUSE OF ACTION SOUNDING IN STRICT LIABILITY

12. With regard to paragraph 84 of the Complaint, Jerguson 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. Jerguson denies the truth of the allegations contained in paragraphs 85 through 93 of the Complaint, insofar as they are directed at Jerguson, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraphs.

AS TO THE FOURTH CAUSE OF ACTION
LABOR LAW VIOLATIONS

14. With regard to paragraph 94 of the Complaint, Jerguson 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. Jerguson denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 95 through 112 (inclusive), including all sub-parts therein, as these allegations do not pertain to it.

AS TO THE FIFTH CAUSE OF ACTION AGAINST DEFENDANT METROPOLITAN LIFE
INSURANCE COMPANY

16. With regard to paragraph 113 of the Complaint, Jerguson 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. Jerguson denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 114 through 120 (inclusive) of the Complaint, as these allegations do not pertain to it.

AS TO THE SIXTH CAUSE OF ACTION SOUNDING IN CONSPIRACY AND
COLLECTIVE LIABILITY/CONCERT OF ACTION

18. With regard to paragraph 121 of the Complaint, Jerguson 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. Jerguson denies the truth of the allegations contained in paragraphs 122 through 136 of the Complaint, including all sub-parts, insofar as they are directed at Jerguson, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraphs.

AS TO THE SEVENTH CAUSE OF ACTION AGAINST DEFENDANT CONTRACTORS

20. With regard to paragraph 137 of the Complaint, Jerguson repeats, reiterates and realleges each and every response as to paragraphs 1 through 136 of the Complaint as if more fully set forth herein.

21. Jerguson denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 138 through 150 (inclusive) of the Complaint, as these allegations do not pertain to it.

AS TO THE EIGHTH CAUSE OF ACTION FOR PREMISES LIABILITY AGAINST
CERTAIN DEFENDANTS

22. With regard to paragraph 151 of the Complaint, Jerguson repeats, reiterates and realleges each and every response as to paragraphs 1 through 150 of the Complaint as if more fully set forth herein.

23. Jerguson denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 152 through 166 (inclusive), including all sub-parts therein, as these allegations do not pertain to it.

AS TO THE NINTH CAUSE OF ACTION JOINT AND SEVERAL LIABILITY

24. With regard to paragraph 167 of the Complaint, Jerguson repeats, reiterates and realleges each and every response as to paragraphs 1 through 166 of the Complaint as if more fully set forth herein.

25. Jerguson denies the truth of the allegations contained in paragraphs 168 through 179 of the Complaint insofar as they are directed at Jerguson, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraphs, and refers all questions of law to the Court.

AS TO THE TENTH CAUSE OF ACTION PUNITIVE DAMAGES

26. With regard to paragraph 180 of the Complaint, Jerguson repeats, reiterates and realleges each and every response as to paragraphs 1 through 179 of the Complaint as if more fully set forth herein.

27. Jerguson denies the truth of the allegations contained in paragraph 181 of the Complaint, insofar as they are directed at Jerguson, and otherwise denies knowledge or

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.