

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

-----X

TROY SHANE SMITH and ALLYSON JANE SMITH,

Index No. 814633/2023

Plaintiffs,

vs.

84 LUMBER COMPANY, et al.,

VERIFIED ANSWER

Defendants.

-----X

**ANSWER TO PLAINTIFFS’ COMPLAINT AND AFFIRMATIVE DEFENSES OF
DEFENDANT CLEAVER-BROOKS, INC.**

Defendant Cleaver-Brooks, Inc., improperly served as “Clever Brooks Company f/k/a Aqua Chem, Inc.” (“Clever-Brooks” or “Defendant”), as its Answer to Plaintiffs’ Complaint (the “Complaint”) and Affirmative Defenses, states as follows:

1–4. Cleaver-Brooks is without knowledge or information to form a belief as to the truth of the allegations set forth in Paragraphs 1 through 4.

5. To the extent that Paragraph 5 contains allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraph 5. To the extent that Paragraph 5 contains allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities. Further, the allegation that Cleaver-Brooks has conducted and/or transacted business in New York is a question of law to be adjudicated by this Court.

6–19. Paragraphs 6 through 19 make no allegation against Cleaver-Brooks and therefore Cleaver-Brooks makes no answer thereto.

20. To the extent that Paragraph 20 contains allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraph 20. To the extent that Paragraph 20

contains allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information to form a belief as to the truth of the allegations set forth against those entities. Further, the allegation that Cleaver-Brooks has conducted and/or transacted business in New York is a question of law to be adjudicated by this Court.

21–60. Paragraphs 18 through 60 make no allegation against Cleaver-Brooks and therefore Cleaver-Brooks makes no answer thereto.

61. To the extent that the allegations in Paragraph 61 are directed against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraph 61. To the extent that Paragraph 61 contains allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities. Answering further, the allegation that Cleaver-Brooks has conducted and/or transacted business in New York is a question of law to be adjudicated by this Court.

62–69. To the extent that the allegations in Paragraphs 62 through 69 are directed against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 62 through 69. To the extent that Paragraphs 62 through 69 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

AS AND FOR A FIRST CAUSE OF ACTION

70. Cleaver-Brooks repeats each and every answer contained in Paragraphs 1 through 69 of this Answer herein with the same force and effect as if fully set forth herein.

71–78. To the extent that Paragraphs 71 through 78 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 71 through 78. To the extent that Paragraphs 71 through 78 contain allegations against entities other than Cleaver-Brooks,

Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

AS AND FOR A SECOND CAUSE OF ACTION

79. Cleaver-Brooks repeats each and every answer contained in Paragraphs 1 through 78 of this Answer herein with the same force and effect is as if fully set forth herein.

80–83. To the extent that Paragraphs 80 through 83 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 80 through 83. To the extent that Paragraphs 80 through 83 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

AS AND FOR A THIRD CAUSE OF ACTION

84. Cleaver-Brooks repeats each and every answer contained in Paragraphs 1 through 83 of this Answer herein with the same force and effect is as if fully set forth herein.

85–93. To the extent that Paragraphs 85 through 93 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 85 through 93. To the extent that Paragraphs 85 through 93 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

AS AND FOR A FOURTH CAUSE OF ACTION

94. Cleaver-Brooks repeats each and every answer contained in Paragraphs 1 through 93 of this Answer herein with the same force and effect is as if fully set forth herein.

95–103. To the extent that Paragraphs 95 through 103 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 95 through 103. To the

extent that Paragraphs 95 through 103 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

104. To the extent that Paragraph 104 contains allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraph 104. To the extent that Paragraph 104 contains allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities. Answering further, the applications of the New York Labor Law (hereinafter the “Labor Law”) and New York Industrial Code (hereinafter the “Industrial Code”) are questions of law to be determined by this Court.

105–110. To the extent that Paragraphs 105 through 110 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 105 through 110. To the extent that Paragraphs 105 through 110 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

111. The allegations in Paragraph 111 are overly broad, vague, and lack foundation. Therefore, to the extent that Paragraph 111 contains allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraph 111. To the extent that Paragraph 111 contains allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

112. The application of the Industrial Code 23 1.7 (g) and its predecessor is a question of law to be determined by this Court; therefore Cleaver-Brooks denies the allegations.

AS AND FOR A FIFTH CAUSE OF ACTION

113. Cleaver-Brooks repeats each and every answer contained in Paragraphs 1 through 112 of this Answer herein with the same force and effect as if fully set forth herein.

114–120. To the extent that Paragraphs 114 through 120 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 114 through 120. To the extent that Paragraphs 114 through 120 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

AS AND FOR A SIXTH CAUSE OF ACTION

121. Cleaver-Brooks repeats each and every answer contained in Paragraphs 1 through 120 of this Answer herein with the same force and effect as if fully set forth herein.

122–130. To the extent that Paragraphs 122 through 130 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 122 through 130. To the extent that Paragraphs 122 through 130 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

131. Cleaver-Brooks denies the allegations in Paragraph 131.

132–136. To the extent that Paragraphs 132 through 136 contain allegations against Cleaver-Brooks, Cleaver-Brooks denies the allegations set forth in Paragraphs 132 through 136. To the extent that Paragraphs 132 through 136 contain allegations against entities other than Cleaver-Brooks, Cleaver-Brooks is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth against those entities.

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.