

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ERIETROY SHANE SMITH and ALLYSON JANE  
SMITH,

Plaintiffs,

-against-

84 LUMBER COMPANY, *et al.*,

Defendants.

Index No. 814633/2023

**VERIFIED ANSWER  
AND CROSS-CLAIMS OF  
DEFENDANT LENNOX  
INDUSTRIES INC.**

Defendant Lennox Industries Inc. (“Lennox”), incorrectly sued herein as “Lennox Industries, Inc., Individually and as Successor to Lennox Furnace Company and Ducane,” by its attorneys, Darger Errante Yavitz & Blau LLP, answers the Verified Complaint (the “Complaint”) of Plaintiffs Troy Shane Smith and Allyson Jane Smith, (“Plaintiff” or collectively “Plaintiffs”) as follows:

1. Lennox 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.
2. Paragraph 4 of the Complaint contains no allegations to which a response is required; to the extent a response is required, Lennox denies the allegations contained in the aforesaid paragraph insofar as they pertain to Lennox and denies knowledge or information sufficient to form a belief as to the truth of these allegations insofar as they pertain to other parties.
3. Lennox denies the allegations contained in paragraph 5 of the Complaint as they pertain to Lennox, except admits that Lennox is a Delaware corporation with its principal place of business in Texas, and denies knowledge or information sufficient to form a belief as to the truth of such allegations as they pertain to other parties.

4. Lennox denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 6 through 43 of the Complaint.

5. Lennox denies the allegations contained in paragraph 44 of the Complaint, except admits that Lennox is a Delaware corporation with its principal place of business in Texas.

6. Lennox denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 45 through 61 of the Complaint.

7. Lennox denies the allegations contained in paragraph 62 of the Complaint as they pertain to Lennox, except admits that Lennox is a Delaware corporation with its principal place of business in Texas, and denies knowledge or information sufficient to form a belief as to the truth of such allegations as they pertain to other parties.

8. Lennox denies the allegations contained in paragraphs 63 through 69 of the Complaint, insofar as such allegations pertain to Lennox, and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the aforesaid paragraphs as they pertain to other parties.

AS TO THE FIRST CAUSE OF ACTION SOUNDING IN NEGLIGENCE

9. In response to paragraph 70 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 69 of the Complaint with the same force and effect as if set forth at length hereinafter.

10. Lennox denies the allegations contained in paragraphs 71 through 78 of the Complaint, insofar as such allegations pertain to Lennox, and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the aforesaid paragraphs as they pertain to other parties.

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

11. In response to paragraph 79 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 78 of the Complaint with the same force and effect as if set forth at length hereinafter.

12. Lennox denies the allegations contained in paragraphs 80 through 83 of the Complaint insofar as such allegations pertain to Lennox, and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the aforesaid paragraphs insofar as they pertain to other parties.

AS TO THE THIRD CAUSE OF ACTION SOUNDING IN STRICT LIABILITY

13. In response to paragraph 84 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 83 of the Complaint with the same force and effect as if set forth at length hereinafter.

14. Lennox denies the allegations contained in paragraphs 85 through 93 of the Complaint insofar as such allegations pertain to Lennox, and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the aforesaid paragraphs insofar as they pertain to other parties.

AS TO THE FOURTH CAUSE OF ACTION LABOR LAW VIOLATIONS

15. In response to paragraph 94 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 93 of the Complaint with the same force and effect as if set forth at length hereinafter.

16. Lennox denies the allegations contained in paragraphs 95 through 112 of the Complaint, insofar as such allegations pertain to Lennox, denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the aforesaid paragraphs insofar as they pertain to other parties, and refers all questions of law to the Court.

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

17. In response to paragraph 113 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 112 of the Complaint with the same force and effect as if set forth at length hereinafter.

18. Paragraphs 114 through 120 of the Complaint contain no allegations to which a response is required; to the extent a response is required, Lennox denies the allegations contained in the aforesaid paragraph insofar as they pertain to Lennox and denies knowledge or information sufficient to form a belief as to the truth of these allegations insofar as they pertain to other parties.

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

19. In response to paragraph 121 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 120 of the Complaint with the same force and effect as if set forth at length hereinafter.

20. Lennox denies the allegations contained in paragraphs 122 through 136 of the Complaint and denies knowledge or information sufficient to form a belief as to the truth of the allegations as they pertain to other parties.

AS TO THE SEVENTH CAUSE OF ACTION AGAINST DEFENDANT CONTRACTORS

21. In response to paragraph 137 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 136 of the Complaint with the same force and effect as if set forth at length hereinafter.

22. Paragraph 138 of the Complaint contains no allegations to which a response is required; to the extent a response is required, Lennox denies the allegations contained in the aforesaid paragraph insofar as they pertain to Lennox and denies knowledge or information sufficient to form a belief as to the truth of these allegations insofar as they pertain to other parties.

23. Lennox denies the allegations contained in paragraphs 139 through 150 of the Complaint and denies knowledge or information sufficient to form a belief as to the truth of the allegations as they pertain to other parties, and refers all questions of law to the Court.

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

24. In response to paragraph 151 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 150 of the Complaint with the same force and effect as if set forth at length hereinafter.

25. Lennox denies the allegations contained in paragraphs 152 through 166 of the Complaint and denies knowledge or information sufficient to form a belief as to the truth of the allegations as they pertain to other parties, and refers all questions of law to the Court.

AS TO THE NINTH CAUSE OF ACTION JOINT AND SEVERAL LIABILITY

26. In response to paragraph 167 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 166 of the Complaint with the same force and effect as if set forth at length hereinafter.

27. Lennox denies the allegations contained in paragraphs 168 through 179 of the Complaint, insofar as such allegations pertain to Lennox, denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the aforesaid paragraphs insofar as they pertain to other parties, and refers all questions of law to the Court.

AS TO THE TENTH CAUSE OF ACTION PUNITIVE DAMAGES

28. In response to paragraph 180 of the Complaint, Lennox repeats, reiterates, and realleges each and every response to the allegations contained in paragraphs 1 through 179 of the Complaint with the same force and effect as if set forth at length hereinafter.

29. Lennox denies the allegations contained in paragraph 181 of the Complaint and

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