

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

TROY SHANE SMITH and ALLYSON
JANE SMITH,

INDEX NO. 814633-2023

Plaintiff(s),

-against-

84 LUMBER COMPANY, et al.

Defendants.

**VERIFIED ANSWER OF DEFENDANT,
CLARK-RELIANCE CORPORATION,
INDIVIDUALLY TO PLAINTIFFS’
COMPLAINT**

Defendant, CLARK-RELIANCE CORPORATION, INDIVIDUALLY (“Clark-RELIANCE” or “Defendant”), by its attorneys, O’TOOLE SCRIVO, LLC, for its answer to Plaintiffs’ Verified Complaint (“Complaint”), states as follows:

ANSWER TO VERIFIED COMPLAINT

1. Defendant makes no answer to Paragraph 1 of Plaintiffs’ Complaint since this Paragraph makes no factual or legal allegations against this Defendant.
2. Defendant denies the allegations in Paragraph 2 and leaves Plaintiffs to their proofs.
3. Defendant makes no answer to Paragraph 3 since this Paragraph makes no factual or legal allegations against this Defendant.
4. to 5. Defendant denies the allegations in Paragraphs 4 through 5 of Plaintiffs’ Complaint and leaves Plaintiffs to their proofs.
6. to 17. Defendant makes no answer to Paragraphs 6 through 17 since these Paragraphs make no factual or legal allegations against this Defendant.
18. Defendant denies the allegations in Paragraph 18 and leaves Plaintiffs to their

proofs.

19. to 61. Defendant makes no answer to the allegations set forth in Paragraphs 19 through 61 of Plaintiffs' Complaint since the allegations in those Paragraphs make no factual or legal allegations against this Defendant.

62. to 69. Defendant denies the allegations in Paragraphs 62 through 69 of Plaintiffs' Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A FIRST CAUSE OF ACTION

70. Defendant repeats and reiterates its answers to Paragraphs 1 through 69 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

71. to 78. Defendant denies the allegations contained in Paragraphs 71 through 78 of Plaintiffs' Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

79. Defendant repeats and reiterates its answers to Paragraphs 1 through 78 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

80. to 83. Defendant denies the allegations contained in paragraphs 80 through 83 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

84. Defendant repeats and reiterates its answers to Paragraphs 1 through 83 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

85. to 93. Defendant denies the allegations contained in paragraphs 85 through 93 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

94. Defendant repeats and reiterates its answers to Paragraphs 1 through 93 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

95. to 112. Defendant denies the allegations contained in paragraphs 95 through 112 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

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

113. Defendant repeats and reiterates its answers to Paragraphs 1 through 112 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

114. to 120. Defendant makes no answer to Paragraph 114 through 120 of Plaintiffs' Complaint since this Paragraph makes no factual or legal allegations against this defendant.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

121. Defendant repeats and reiterates its answers to Paragraphs 1 through 120 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

122. to 136. Defendant denies the allegations contained in Paragraphs 122 through 136 of Plaintiffs' Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

137. Defendant repeats and reiterates its answers to Paragraphs 1 through 136 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

138. to 150. Defendant denies the allegations contained in paragraphs 138 through 150 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A EIGHTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

151. Defendant repeats and reiterates its answers to Paragraphs 1 through 150 of

Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

152. to 166. Defendant denies the allegations contained in paragraphs 152 through 166 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A NINTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

167. Defendant repeats and reiterates its answers to Paragraphs 1 through 166 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

168. to 179. Defendant denies the allegations contained in paragraphs 168 through 179 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A TENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

180. Defendant repeats and reiterates its answers to Paragraphs 1 through 179 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

181. Defendant denies the allegations contained in paragraph 181 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

AS AND FOR A ELEVENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

182. Defendant repeats and reiterates its answers to Paragraphs 1 through 181 of Plaintiffs' Verified Complaint and incorporates same as if set forth at length herein.

183. to 184. Defendant denies the allegations contained in paragraphs 183 through 184 of Plaintiffs' Verified Complaint and leaves Plaintiffs to their proofs.

WHEREFORE, Defendant demands judgment against Plaintiffs, for:

- a) Dismissal, with prejudice, of the Plaintiffs' Complaint;
- b) An award of costs of court and counsel fees;
- c) Such other relief as may be equitable and just.

AFFIRMATIVE DEFENSES

1. The Complaint and each and every allegation considered separately fail to state any cause of action against this Defendant upon which relief can be granted.
2. All claims are time-barred by the applicable Statute of Limitations.
3. All causes of action have not been maintained in a timely fashion and Plaintiff has neglected the same and should be barred by the doctrine of laches.
4. The court lacks jurisdiction over the subject matter of this dispute.
5. The court lacks general, personal jurisdiction over this Defendant.
6. This court specific, personal jurisdiction over this Defendant.
7. This Defendant is erroneously named in the Complaint.
8. There is insufficiency of service of process, and/or lack of service of process.
9. Plaintiff's claims are barred because of plaintiff's failure to join necessary and indispensable parties.
10. Upon information and belief, some or all of the causes of action may not be maintained because of collateral estoppel.
11. All claims brought under the New York Law, L. 1986 C. Section 4 are time-barred as the statute is unconstitutional.
12. Plaintiff's actions are barred by the doctrines of estoppel, waiver, and laches.
13. The venue of this action is improper and this Defendant reserves the right to move for transfer.
14. This Court is considered a forum *non conveniens* for this Defendant with respect to each and every Count contained in Plaintiff's Complaint.

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