

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

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DENNIS KILKENNY and PATRICIA KILKENNY,

Index No. 190011/2024

Plaintiff(s),

VERIFIED ANSWER

-against-

AII ACQUISITION, LLC, F/K/A AII ACQUISITION
CORP., F/K/A ATHLONE INDUSTRIES, INC., F/K/A
HOLLAND FURNACE COMPANY, et al.,

Defendants.

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Defendant MOTOROLA SOLUTIONS, INC., by its attorneys, GORDON REES
SCULLY MANSUKHANI LLP, for its answer to plaintiffs' Verified Complaint alleges on
information and belief:

1. Defendant denies all material allegations in plaintiffs' Verified Complaint as they pertain to MOTOROLA SOLUTIONS, INC.
2. Defendant denies knowledge or information sufficient to form a belief as to the truth of each and every other allegation contained in plaintiffs' Verified Complaint.
3. Defendant reserves the right to amend this answer and to assert additional defenses and/or to supplement, alter, or change this answer upon ascertaining additional facts during and upon completion of discovery and investigations.

WHEREFORE, defendant MOTOROLA SOLUTIONS, INC. demands dismissal of the Complaint and any and all Cross-Claims.

AS AND FOR A FIRST SEPARATE AND COMPLETE DEFENSE

The Verified Complaint fails to state a cause of action against MOTOROLA SOLUTIONS, INC.

AS AND FOR A SECOND SEPARATE AND COMPLETE DEFENSE

This Court lacks jurisdiction over the subject matter of this action.

AS AND FOR A THIRD SEPARATE AND COMPLETE DEFENSE

This Court lacks personal jurisdiction over MOTOROLA SOLUTIONS, INC.

AS AND FOR A FOURTH SEPARATE AND COMPLETE DEFENSE

The lawsuit was not commenced by plaintiff within the time prescribed by law and the plaintiff, therefore, is barred from recovery pursuant to applicable statutes of limitations.

AS AND FOR A FIFTH SEPARATE AND COMPLETE DEFENSE

The claims of plaintiff are barred by the doctrine of laches.

AS AND FOR A SIXTH SEPARATE AND COMPLETE DEFENSE

The damages allegedly sustained by plaintiff were caused, in whole or in part, by the negligence or other culpable conduct of plaintiff and/or other defendants, which conduct constituted a supervening cause of plaintiffs' alleged injuries.

AS AND FOR A SEVENTH SEPARATE AND COMPLETE DEFENSE

Insofar as the Verified Complaint and each cause of action considered separately allege a cause of action occurring after September 1, 1975, each such cause of action is barred by reason of the culpable conduct attributable to plaintiff, including contributory negligence and assumption of the risk.

AS AND FOR AN EIGHTH SEPARATE AND COMPLETE DEFENSE

Any damages allegedly sustained by the plaintiff were the proximate result of an unforeseen occurrence and/or unforeseeable negligence, gross negligence, wanton, reckless or intentional conduct constituting an intervening or superseding act or omission or other conduct by third parties.

AS AND FOR A NINTH SEPARATE AND COMPLETE DEFENSE

The damages allegedly sustained by plaintiff were caused, in whole or in part, by the negligence or other culpable conduct of one or more persons or instrumentalities over which MOTOROLA SOLUTIONS, INC. had no control and with whom it had no legal relationship.

AS AND FOR A TENTH SEPARATE AND COMPLETE DEFENSE

The damages allegedly sustained by plaintiff were caused, in whole or in part, through unavoidable natural consequences.

AS AND FOR AN ELEVENTH SEPARATE AND COMPLETE DEFENSE

If the plaintiff sustained damages as alleged, such damages occurred while they engaged in activities into which they entered, knowing the hazard, risk and danger of the activities and they assumed the risks incidental to and attendant to the activities.

AS AND FOR A TWELFTH SEPARATE AND COMPLETE DEFENSE

All claims brought under New York Law, L. 1986 c. 682 Section 4 (enacted July 31, 1986) are time-barred in that said statute is in violation of the Constitution of the United States and the Constitution of the State of New York.

AS AND FOR A THIRTEENTH SEPARATE AND COMPLETE DEFENSE

This action cannot be maintained, as there is another action pending for the same relief.

AS AND FOR A FOURTEENTH SEPARATE AND COMPLETE DEFENSE

To the extent that any injury relating to plaintiff occurred in the context of an employer-employee relationship, claims for said injuries are preempted by the Workers' Compensation Act.

AS AND FOR A FIFTEENTH SEPARATE AND COMPLETE DEFENSE

No acts or omissions of MOTOROLA SOLUTIONS, INC. proximately caused plaintiffs' damages.

AS AND FOR A SIXTEENTH SEPARATE AND COMPLETE DEFENSE

Any asbestos-containing product of or used in conjunction with products sold by MOTOROLA SOLUTIONS, INC. that may have been present at plaintiffs' job locations were installed or configured on the basis of the specifications, approval or at the instruction of governmental or legislative agencies or other regulatory bodies.

AS AND FOR A SEVENTEENTH SEPARATE AND COMPLETE DEFENSE

The damages sustained by plaintiff arising from their alleged exposure to asbestos-containing products while working on or near the equipment or other product allegedly manufactured or sold by MOTOROLA SOLUTIONS, INC. (the "Product"), were caused, in whole or in part, by the improper use and operation of the Product, rather than any defect in the design, manufacture, production, assemblage, installation, testing, labeling, marketing, distribution, sale or inspection of the Product by MOTOROLA SOLUTIONS, INC.

AS AND FOR AN EIGHTEENTH SEPARATE AND COMPLETE DEFENSE

The damages sustained by the plaintiff which allegedly arose from the product were caused by its alteration, misuse and/or improper maintenance by one or more persons or instrumentalities other than MOTOROLA SOLUTIONS, INC., rather than any defect in the design, manufacture, production, assemblage, installation, testing, labeling, marketing, distribution, sale or inspection of the product by MOTOROLA SOLUTIONS, INC.

AS AND FOR A NINETEENTH SEPARATE AND COMPLETE DEFENSE

MOTOROLA SOLUTIONS, INC. is not liable for the damages allegedly sustained by plaintiff because plaintiff is not in privity of contract with MOTOROLA SOLUTIONS, INC. at any time and the Product was not inherently dangerous.

AS AND FOR A TWENTIETH SEPARATE AND COMPLETE DEFENSE

The Product was in all respects fit and suitable for its intended and reasonably foreseeable uses and was not in a defective or dangerous condition when it left MOTOROLA SOLUTIONS, INC.'s possession and control.

AS AND FOR A TWENTY-FIRST SEPARATE AND COMPLETE DEFENSE

No implied warranties, including the warranties of merchantability and fitness for a particular purpose, became a part of the basis of the bargain in the sale of the product.

AS AND FOR A TWENTY-SECOND SEPARATE AND COMPLETE DEFENSE

Oral warranties upon which plaintiff allegedly relied are unavailable as violative of the provisions of the applicable Statute of Frauds.

AS AND FOR A TWENTY-THIRD SEPARATE AND COMPLETE DEFENSE

To the extent that plaintiff sustained injuries from the use of a product sold by MOTOROLA SOLUTIONS, INC. that is alleged to have contained asbestos, which is denied, plaintiffs, plaintiffs' decedents, other defendants or other parties not under the control of MOTOROLA SOLUTIONS, INC. misused, abused, misapplied and otherwise mishandled the part of the product alleged to have been asbestos material. Therefore, the amount of damages must be diminished by the proportion, which said misuse, abuse, misapplication and mishandling bears to the conduct, which allegedly caused plaintiffs' damage or injury.

AS AND FOR A TWENTY-FOURTH SEPARATE AND COMPLETE DEFENSE

In the event it should be proven at the time of trial that all the defendants are subject to market share liability, then MOTOROLA SOLUTIONS, INC.'s share of such liability would be of such a de minimis amount as to make its contribution for damages negligible, and MOTOROLA

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