

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

Plaintiffs,

- against -

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

**TOSHIBA AMERICA, INC.’S**  
**ANSWER TO PLAINTIFFS’**  
**VERIFIED COMPLAINT**

Defendants.

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The Defendant TOSHIBA AMERICA, INC., incorrectly pled as “Toshiba America Inc.”,  
(hereinafter “TAI” or the “defendant”), by its attorneys, WILSON, ELSER, MOSKOWITZ,  
EDELMAN & DICKER, answering the Verified Complaint of the plaintiffs herein, respectfully  
alleges upon information and belief:

1. The defendant has insufficient knowledge or information upon which to form a  
belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and  
leaves plaintiffs to their proof.

2. The defendant has insufficient knowledge or information upon which to form a  
belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and  
leaves plaintiffs to their proof as the allegations pertain to other defendants. The remaining  
allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to  
TAI, are denied.

3. The defendant has insufficient knowledge or information upon which to form a  
belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and  
leaves plaintiffs to their proof as the allegations pertain to other defendants. The remaining

allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

4. To the extent that this paragraph of the Verified Complaint states conclusions of law, no response is required of the defendant. Otherwise, the defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

5. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof.

6. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

7. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

8. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof.

9. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof.

### **FIRST CAUSE OF ACTION**

The defendant repeats and incorporates each and every response to the allegations contained within the preceding counts and makes the same a part hereof as if set forth herein at length.

10. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

11. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

12. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining

allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

13. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

14. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

15. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

16. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

17. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph and its subparts a) to h) of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph and its subparts of the Verified Complaint, as the allegations pertain to TAI, are denied.

18. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

19. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

20. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining allegations contained in this paragraph of the Verified Complaint, as the allegations pertain to TAI, are denied.

21. The defendant has insufficient knowledge or information upon which to form a belief as to the truth of the allegations contained in this paragraph of the Verified Complaint and leaves plaintiffs to their proof as the allegations pertain to this defendant. The remaining

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