

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

DENNIS KILKENNY and PATRICIA KILKENNY,

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.*,

Defendants.

Index No. 190011/2024

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

Defendant, Lennox Industries Inc. (sued incorrectly herein as “LENNOX INDUSTRIES, INC.” and “LENNOX INDUSTRIES, INC. ind. and and [sic] as suc. To THE DUCANE COMPANY”) (“Lennox”), by its attorneys, Darger Errante Yavitz & Blau LLP, answers the Verified Complaint (“the Complaint”) of Plaintiffs Dennis Kilkenney and Patricia Kilkenney (“Plaintiff” or “Plaintiffs”) as follows:

1. Lennox denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint.

2. Lennox denies the allegations contained in paragraphs 2 and 3 of the Complaint insofar as such allegations pertain to Lennox, except admits that Lennox does business in this State, and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the aforesaid paragraph as they pertain to other parties.

7. Paragraph 4 of the Complaint contains no allegations to which a response is required; to the extent a response is required, however, Lennox denies the allegations contained in the aforesaid paragraph of the Complaint, and denies knowledge or information sufficient to form

a belief as to the truth of the allegations contained in the aforesaid paragraph as they pertain to other parties.

8. Lennox denies the allegations contained in paragraphs 5 through 8 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.

9. Lennox denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint.

FIRST CAUSE OF ACTION

10. In response to the First Cause of Action of the Complaint, Lennox repeats and realleges each and every response contained in paragraphs 1 through 9 of the Answer herein with the same force and effect as if fully set forth therein.

11. Lennox denies the allegations contained in paragraphs 10 through 35 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.

SECOND CAUSE OF ACTION

12. In response to the Second Cause of Action of the Complaint, Lennox repeats and realleges each and every response contained in paragraphs 1 through 35 of the Answer herein with the same force and effect as if fully set forth therein.

13. Lennox denies the allegations contained in paragraphs 36 through 39 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.

THIRD CAUSE OF ACTION

14. In response to the Third Cause of Action of the Complaint, Lennox repeats and realleges each and every response contained in paragraphs 1 through 39 of the Answer herein with the same force and effect as if fully set forth therein.

15. Lennox denies the allegations contained in paragraphs 40 and 41 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.

FOURTH CAUSE OF ACTION

16. In response to the Fourth Cause of Action of the Complaint, Lennox repeats and realleges each and every response contained in paragraphs 1 through 41 of the Answer herein with the same force and effect as if fully set forth therein.

17. Lennox denies the allegations contained in paragraphs 42 through 68 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.

FIFTH CAUSE OF ACTION

18. In response to the Fifth Cause of Action of the Complaint, Lennox repeats and realleges each and every response contained in paragraphs 1 through 68 of the Answer herein with the same force and effect as if fully set forth therein.

19. Lennox denies the allegations contained in paragraphs 69 through 82 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.

SIXTH CAUSE OF ACTION

20. In response to the Sixth Cause of Action of the Complaint, Lennox repeats and realleges each and every response contained in paragraphs 1 through 82 of the Answer herein with the same force and effect as if fully set forth therein.

21. Lennox denies the allegations contained in paragraphs 83 through 98 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.

SEVENTH CAUSE OF ACTION

22. In response to the Seventh Cause of Action of the Complaint, Lennox repeats and realleges each and every response contained in paragraphs 1 through 98 of the Answer herein with the same force and effect as if fully set forth therein.

23. Lennox denies the allegations contained in paragraph 99 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.

FOR A FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state cognizable claims as against Lennox.

FOR A SECOND AFFIRMATIVE DEFENSE

While denying Plaintiff's allegations with respect to liability, to the extent that negligence of culpable conduct may be proven, the acts of Lennox are not a proximate cause of any injuries to Plaintiff.

FOR A THIRD AFFIRMATIVE DEFENSE

The Complaint fails to comply with the most minimal pleading requirements.

FOR A FOURTH AFFIRMATIVE DEFENSE

To the extent that the Complaint and the claims made by Plaintiff were not commenced within the time limited by law, the Complaint is barred by the applicable statute of limitations and/or laches.

FOR A FIFTH AFFIRMATIVE DEFENSE

In the event that Plaintiff used any asbestos-containing product(s), said product(s) was misused, or improperly used, which misuse or improper use proximately caused and contributed, in whole or in part, to the claims alleged by Plaintiff in the Complaint.

FOR A SIXTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff failed and neglected to maintain this action in a swift, diligent, and timely fashion, the Complaint is barred by waiver and laches.

FOR A SEVENTH AFFIRMATIVE DEFENSE

The injuries and/or illnesses to Plaintiff, if any, are unrelated to any act or omission of Lennox or any individual acting under its direction or control.

FOR AN EIGHTH AFFIRMATIVE DEFENSE

Upon information and belief, Plaintiff failed to mitigate or otherwise act to lessen or reduce the injuries and disabilities alleged in the Complaint.

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