

IN THE SUPERIOR COURT OF LOWNDES COUNTY
STATE OF GEORGIA



PLAINTIFFS,

v.

MAPLE DRIVE PARTNERS, LLC f/k/a*

MAPLE DRIVE PARTNERS, LLLP,

DEFENDANT.

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*CIVIL ACTION NO.: 2022CV0447

ANSWER AND DEFENSES OF DEFENDANT

To Plaintiff's Complaint, the following answer and defenses are hereby made by Defendant, Maple Drive Partners, LLC f/k/a Maple Drive Partners, LLLP.

FIRST DEFENSE

The Complaint fails to set forth a claim against Defendant upon which relief can be granted.

SECOND DEFENSE

The damages sustained by the Plaintiff were solely and proximately caused by the negligence of someone other than this Defendant and, therefore, Plaintiff cannot recover from this Defendant.

THIRD DEFENSE

To the extent applicable, any injuries or damages sustained by the Plaintiff were solely and proximately caused by the

negligence of [REDACTED], and therefore, Plaintiff cannot recover from this Defendant.

FOURTH DEFENSE

Defendant asserts that no act or omission of the Defendant proximately caused the occurrence at issue in this litigation or any damages alleged occurred by the Plaintiff. Therefore, Plaintiff cannot recover from this Defendant.

FIFTH DEFENSE

Any damages claimed by the Plaintiff were proximately caused by the intentional act and/or negligence of one or more third parties over whom Defendant had no control or legal responsibility, and therefore, Plaintiff cannot recover from this Defendant.

SIXTH DEFENSE

[REDACTED] assumed the risk of injury under all intended circumstances, and therefore, Plaintiff cannot recover from this Defendant.

SEVENTH DEFENSE

With regard to the events described in Plaintiff's Complaint the conduct of Defendant did not amount to willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious and

indifference to consequences. Therefore, O.C.G.A. § 51-12-5.1(b) bars Plaintiff from recovering punitive damages against Defendant.

EIGHTH DEFENSE

The due process clause, the Fifth Amendment and the Fourteenth Amendment to the United States Constitution bar Plaintiff from recovering punitive damages against Defendant.

NINTH DEFENSE

The excessive fines clause of Article 1 Section 1 Paragraph 17 of the Georgia Constitution bars the plaintiffs from recovering punitive damages against this defendant.

TENTH DEFENSE

The decisions of the United States Supreme Court in BMW of North America, Inc. v. Gore, 116 S.Ct. 1589 (1996) and State Farm v. Campbell, 123 S.Ct. 1513 (2003) bar any recovery by plaintiff against defendant for punitive damages.

ELEVENTH DEFENSE

Pursuant to the decisions of the United States Supreme Court in BMW of North America, Inc. v. Gore, 116 S.Ct. 1589 (1996) and State Farm v. Campbell, 123 S.Ct. 1513 (2003), O.C.G.A. § 51-12-5.1 is unconstitutional under the United States Constitution.

Therefore, plaintiff cannot make a recovery for punitive damages against defendant.

TWELFTH DEFENSE

This Defendant has a bonafide defense claims asserted against it by the Plaintiff. Therefore, Plaintiff may not recover attorneys fees and litigation expenses against it, pursuant to O.C.G.A. § 13-6-11.

THIRTEENTH DEFENSE

This Defendant reserves the right to assert any additional affirmative defenses and matters of avoidance that may be disclosed during the course of additional investigation and discovery.

FOURTEENTH DEFENSE

(Responsive Answer)

Defendant responsively answers the paragraphs of the Complaint, the various allegations and averments therein contained as follows:

1.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 1 of Plaintiffs' Complaint.

2.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 2 of Plaintiffs' Complaint.

3.

Defendant admits the allegations contained in paragraph number 3 of Plaintiffs' Complaint.

4.

Defendant admits the allegations contained in paragraph number 4 of Plaintiffs' Complaint.

5.

Defendant admits the allegations contained in paragraph number 5 of Plaintiffs' Complaint.

FACTS

6.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 6 of Plaintiffs' Complaint.

7.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 7 of Plaintiffs' Complaint.

8.

Defendant denies the allegations contained in paragraph number 8 of Plaintiffs' Complaint.

9.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 9 of Plaintiffs' Complaint.

10.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 10 of Plaintiffs' Complaint.

11.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 11 of Plaintiffs' Complaint.

12.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 12 of Plaintiffs' Complaint.

13.

For want of sufficient information and knowledge upon which to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph number 13 of Plaintiffs' Complaint.

14.

Defendant denies the allegations contained in paragraph number 14 of Plaintiffs' Complaint.

15.

Defendant denies the allegations contained in paragraph number 15 of Plaintiffs' Complaint.

LIABILITY

Count One

Negligence

16.

Defendant denies the allegations contained in paragraph number 16 of Plaintiffs' Complaint.

17.

Defendant admits the allegations contained in paragraph number 17 of Plaintiffs' Complaint.

18.

Defendant denies the allegations contained in paragraph number 18 of Plaintiffs' Complaint.

Count Two

Nuisance

19.

Defendant denies the allegations contained in paragraph number 19 of Plaintiffs' Complaint.

20.

Defendant denies the allegations contained in paragraph number 20 of Plaintiffs' Complaint.

21.

Defendant denies the allegations contained in paragraph number 21 of Plaintiffs' Complaint.

DAMAGES

22.

Defendant admits the allegations contained in paragraph number 22 of Plaintiffs' Complaint.

23.

Defendant denies the allegations contained in paragraph number 23 of Plaintiffs' Complaint.

24.

Defendant denies the allegations contained in paragraph number 24 of Plaintiffs' Complaint.

25.

Defendant denies the allegations contained in paragraph number 25 of Plaintiffs' Complaint except the Defendant also requests a trial by twelve person jury.

26.

Defendant denies each and every allegation contained in the Plaintiffs' complaint that it has not previously admitted or specifically answered otherwise.

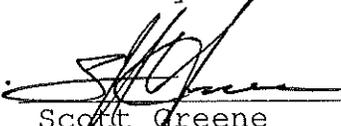
This 27th day of April, 2022.

YOUNG, THAGARD, HOFFMAN, LLP

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State Bar No. 533856
Attorney for Defendant

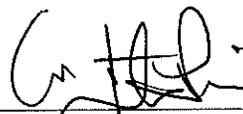
BY: 
Scott Greene
State Bar No. 961342
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **ANSWER AND DEFENSES OF DEFENDANT** upon the following by statutory electronic service by using Odyssey's electronic service system, pursuant to O.C.G.A. §9-11-5(f):

James E. Butler, III
Matthew R. Kahn
10 Lenox Pointe
Atlanta, GA 30324

This 27th day of April, 2022.



W. Justin Purvis
Attorney for Defendant