

FILED

August 02, 2021

ST-2021-CV-00124

TAMARA CHARLES

CLERK OF THE COURT IVA MARSH VAZQUEZ, By her attorney)

In fact, Gary Lopez, and EGLAH MARSH)

CLENDINEN, By her attorneys in fact, Jacqueline)

Clendinen and Ernie Clendinen)

Plaintiff,)

v.)

THE SUMMER'S END GROUP, LLC.)

Defendant(s))

CASE NO: 2021-CV- 00124

**ANSWER AND AFFIRMATIVE DEFENSES OF THE SUMMER’S END GROUP, LLC TO
PLAINTIFFS’ SECOND AMENDED COMPLAINT**

COMES NOW, Defendant, The Summer’s End Group, LLC. (“SEG”), by and through its undersigned counsel, and files its Answer and Affirmative Defenses to Plaintiffs’ Second Amended Complaint and says:

Parties and Jurisdiction

1. Admitted in part, denied in part. It is admitted that Minerva Marsh is a native of St. John who resides in New York. Parcel 10-18 Estate Carolina, St. John, Virgin Islands, however, is owned by The Marsh Sisters’ Family Trust as part of a consolidated parcel.
2. Admitted in part, denied in part. It is admitted that Eglah Marsh is a native and resident of St. John. Parcel 10-17 Estate Carolina, St. John, Virgin Islands, however, is owned by The Marsh Sisters’ Family Trust as part of a consolidated parcel.
3. Admitted.
4. Denied.
5. Denied.

6. The allegations contained in paragraph 6 of Plaintiffs' Second Amended Complaint contain legal conclusions to which no response is required.
7. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 7 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
8. The allegations contained in paragraph 8 of Plaintiffs' Second Amended Complaint contain legal conclusions to which no response is required.

Factual Allegations

9. Denied.
10. Denied.
11. Admitted.
12. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 12 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
13. Admitted in part. It is admitted that an "Project Summary and Letter of Intent" was executed by Minerva Marsh Vazquez and Eglah Marsh Clendinen (and witnessed by Gary Lopez). The remainder of the allegations contained in paragraph 13 of Plaintiffs' Second Amended Complaint summarize a document which speaks for itself, and Plaintiffs are left to their proofs.
14. Admitted in part. It is admitted that Minerva Marsh Vazquez and Eglah Marsh Clendinen executed certain documents, including leases, the Marsh Sisters Family Trust, and quitclaim deeds but the remainder of the allegations contained in paragraph 14 of Plaintiffs' Second Amended Complaint summarize documents which speak for themselves, and Plaintiffs are left to their proofs.

15. The allegations contained in paragraph 15 of Plaintiffs' Second Amended Complaint pertain to non-parties and, as such, no response is required.
16. Denied.
17. Denied.
18. Denied.
19. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 19 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
20. Denied.
21. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 21 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
22. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 22 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
23. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 23 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
24. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 24 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.

25. Admitted in part. It is admitted that an "Option Agreement" was executed on or about July 20, 2012. The remainder of the allegations contained in paragraph 25 of Plaintiffs' Second Amended Complaint summarize a document which speaks for itself, and Plaintiffs are left to their proofs.
26. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 26 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
27. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 27 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
28. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 28 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
29. Denied.
30. Denied.
31. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 31 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
32. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 32 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.

33. Answering Defendant is without sufficient information to admit or deny the allegations contained in paragraph 33 of Plaintiffs' Second Amended Complaint and, as such, Plaintiffs are left to their proofs.
34. Denied. The assignment of the lease was completed on February 18, 2015, not 2014.
35. Denied.
36. Denied.
37. Denied.
38. Admitted in part. It is admitted that an "Amendment to Assignment" was executed. The remainder of the allegations contained in paragraph 38 of Plaintiffs' Second Amended Complaint summarize a document which speaks for itself, and Plaintiffs are left to their proofs.
39. Denied.
40. Admitted.
41. Denied.
42. Admitted in part. The language of the addendum speaks for itself, and it is admitted that Eglah Marsh and Minerva Marsh accepted \$25,000 in bargained for consideration. The allegation that SEG has no value is Denied.
43. Admitted in part. It is admitted that SEG paid \$25,000 which was accepted. To the extent the allegations contained in paragraph 43 allege that SEG has any outstanding payments owed to the Trust, they are explicitly denied.
44. Admitted.
45. Admitted.
46. Denied.

47. Admitted in part. It is admitted that SEG's permit applications include the subject consolidated parcels. It is Denied that the subject properties are owned by Plaintiffs individually. The Trust is the actual owner.

48. Denied. Neither Minerva Marsh Vazquez nor Eglah Marsh Clendinen ever made any such claim. Gary Lopez, Jacqueline Clendinen, and Ernie Clendinen have made these unsupportable contentions for their own personal benefit.

49. Denied. Neither Minerva Marsh Vazquez nor Eglah Marsh Clendinen ever made any such claim. Gary Lopez, Jacqueline Clendinen, and Ernie Clendinen have made these unsupportable contentions for their own personal benefit.

50. Denied. Neither Minerva Marsh Vazquez nor Eglah Marsh Clendinen ever made any such claim. Gary Lopez, Jacqueline Clendinen, and Ernie Clendinen have made these unsupportable contentions for their own personal benefit. Gary Lopez, Jacqueline Clendinen, and Ernie Clendinen have attempted to extort SEG for monies for their own personal benefit. Only that extortion attempt was rejected did they file this baseless suit.

51. Denied. SEG is in complete compliance with its contractual obligations to the Trust and all payments have been made as required.

52. Denied.

53. Denied.

54. Denied.

Count I- Declaratory Judgment

55. Answering Defendant incorporates all preceding paragraphs as if repeated herein.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

a) Denied.

b) Denied.

c) Denied.

d) Denied.

e) Denied.

f) Denied.

g) Denied.

Count II-Unjust Enrichment

68. Answering Defendant incorporates all preceding paragraphs as if repeated herein.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

73. Denied.

74. Denied.

Count III-Quantum Meruit

75. Answering Defendant incorporates all preceding paragraphs as if repeated herein.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

AFFIRMATIVE DEFENSES

1. Plaintiffs' Second Amended Complaint fails to state a claim upon which relief can be granted against Answering Defendant.
2. Plaintiffs lack standing.
3. Plaintiffs' alleged damages were the result of actions or omissions of third parties over whom Answering Defendant had no dominion, control, or legal responsibility.
4. Plaintiffs' Second Amended Complaint should be dismissed due to the failure to join parties indispensable to the complete resolution of this matter.
5. Any damages suffered as alleged by Plaintiffs were the result of intervening causes for which Answering Defendant bears no legal responsibility.
6. Plaintiffs' claims are barred by the doctrine of laches.
7. Plaintiffs' claims are barred by the doctrine of acquiescence.

8. Plaintiffs' claims are barred by the doctrines of good faith, agency, lack of privity.
9. Plaintiffs' claims are barred by the parol evidence rule and the statute of frauds.
10. Plaintiffs' claims are barred by the applicable statutes of limitation.
11. Plaintiffs' claims are barred by the doctrine of accord and satisfaction.
12. Plaintiffs failed to mitigate any damages suffered as alleged.
13. Plaintiffs' claims are barred as to by the absence of duty, the absence of proximate causation as well as by the doctrines of consent, waiver, release and estoppel.
14. Plaintiffs expressly waived and released any claims against Answering Defendant as alleged.

WHEREFORE, The Summer's End Group, LLC respectfully requests this Court dismiss Plaintiffs' Second Amended Complaint with prejudice and award all reasonable fees, costs, and expenses together with any other relief the Court deems just and equitable.

Date: August 2, 2021

Respectfully submitted,

The Cattie Law Firm, P.C.

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Attorney for The Summer's End Group

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of August 2021, I served a copy of the foregoing document on the person(s) listed below via the e-filing system, email and/or first class mail:

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For Plaintiffs
