

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

AND PLAINTIFFS

VS.

NO.

DEFENDANTS

SEPARATE ANSWER AND DEFENSES OF

COMES the defendant, , by its attorneys and responding to the Complaint filed herein would show unto the Court the following, to-wit:

FIRST DEFENSE

The Complaint fails to state a cause of action against this defendant upon which relief may be granted, and therefore, it should be dismissed.

SECOND DEFENSE

The claim is barred by applicable statutes of limitation and should be dismissed.

THIRD DEFENSE

ANSWER

Answering the Complaint paragraph by paragraph, defendant would state the following:

1. Defendant admits that plaintiffs are citizens of County, Mississippi, but denies each and every other allegation contained in paragraph I of the Complaint.
2. The defendant admits its corporate identity as set forth in paragraph 11(1) of the Complaint, but denies each and every other allegation or statement set forth in said paragraph and all its subparagraphs.
3. Defendant denies paragraph III of the Complaint.
4. Defendant denies paragraph IV of the Complaint.
5. Defendant denies paragraph V of the Complaint.
6. Defendant denies paragraph VI of the Complaint.
7. Defendant denies that it is indebted unto plaintiffs for any compensatory damages, punitive damages, or any other claims as set forth in the Complaint.

8. That the sole proximate cause of plaintiff's injuries, if any, was the negligence of in the manner in which he/she utilized such cleaner, in total disregard for his/her own safety, in failing to heed the warnings attached to the container of said chemical, in mixing the chemical with or some other type substance, and misuse of the product, all of which constituted negligence on his/her part and which conduct was the sole proximate cause of his/her injuries, if any.

FOURTH DEFENSE

Although denying that plaintiffs are entitled to punitive damages, or any relief whatsoever as against this defendant, this defendant would affirmatively plead that any assessment of punitive damages against this defendant would be violative of the provisions of the Constitution of the United States of America, including the Eighth Amendment and the Fourteenth Amendment thereof, and is violative of the provisions of the Mississippi Constitution, including Section 28 thereof.

FIFTH DEFENSE

Although denying that plaintiffs are entitled to punitive damages, or any relief whatsoever as against this defendant, this defendant would affirmatively plead:

1. An award of punitive damages in this civil action would amount to a deprivation of property without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Section 14 of the Mississippi Constitution;
2. No legislation has been enacted authorizing punitive damages in a civil action such as this or placing any limit on the amount of punitive damages awardable;
3. An award of punitive damages in this civil action would violate the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution and of Section 14 of the Mississippi Constitution;
4. The criteria used for determining whether and in what amount punitive damages may be awarded are impermissibly vague, imprecise and inconsistent and are therefore in violation of the due process provisions of the Fifth and Fourteenth Amendments to the Constitution of the United States; and
5. An award of punitive damages in this civil action would amount to an excessive fine in violation of the Eighth Amendment to the Constitution of the United States of America and of Section 28 of the Mississippi Constitution.

Having fully answered, this defendant, , demands that it be dismissed and that all costs be assessed against the plaintiffs.

Respectfully submitted,

Attorney for

Of Counsel:

Telephone:
MSB #
Attorney for

CERTIFICATE OF SERVICE

I, _____, hereby certify that I have this day mailed by United States mail, postage prepaid, a true and correct copy of the above and foregoing Answer and Defenses to _____, Esq., Attorney at Law, _____, MS and to _____, Esq., _____, MS .

This the _____ day of _____, _____ .
